DISTRAINT IN RELATION TO AGRICULTURAL TENANCIES .. p. 359
LEAVE TO APPEAR AND DEFEND IN EJECTMENT PROCEEDINGS p. 362

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The Solicitors' Journal

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Current Topics: Restriction on Appeals — Extent of Newspaper Privilege—Attractions to Children—Income Tax and Repair Allowance—Infant Tortfeasor—The Chapel of the Garter 357
Distraint in relation to Agricultural Tenancies 359
Costs 360
Company Law and Practice 360
A Conveyancer's Diary 361
Landlord and Tenant Notebook .. 362
Our County Court Letter 363
Land and Estate Topics 364
Obituary 364
Books Received 364
Points in Practice 365
To-day and Yesterday 366
Notes of Cases—
Turton *v.* Turnbull 367
Hawkes & Son (London) Limited *v.* Paramount Film Service Limited 367
Simpson (Inspector of Taxes) *v.* Grange Trust Limited 367
Andrea Sanguineti Davide of Genoa *v.* Ugleexport of Moscow 367
Kearns *v.* Bedford 368
Romilly *v.* Romilly 368
Marcovitch *v.* Marcovitch 368
In re The Mines (Working Facilities and Support) Acts, 1923 and 1925, and the Mining Industry Act, 1926, Part II. Application by Consett Iron Co., Ltd. 369
Table of Cases previously reported in current volume 369
Societies 370
Parliamentary News 371
Legal Notes and News 372
Stock Exchange Prices of certain Trustee Securities 372

Current Topics.

Restriction on Appeals.

THE Bill introduced by the Lord Chancellor to give effect to the recommendation of the Business of the Courts Committee that the present unlimited right of litigants to carry their cases to the House of Lords should be drastically curtailed, is a step in the direction of real reform. The multiplicity of appeals in civil cases possible at the present time—from the county court to the Divisional Court, from that court to the Court of Appeal, and from the latter to the House of Lords—has long been regarded by reformers as bordering on the tragical in view of the enormous costs involved to the loser, unless, indeed, he happens to be in the happy position of a poor person in the technical sense, in which case the cost falls upon the winner. There is a touch of absurdity in this latitude accorded to litigants to pursue their opponents from tribunal to tribunal. There are those who, not without a certain plausibility, point to the fact that the State sets up a highly-trained judge to adjudicate on the rival contentions of plaintiff and defendant, and ask why, when he has done so, the loser should be permitted to assume that the learned judge has gone wrong—an assumption which, assert the critics, is, as Euclid would say, absurd. Judges of first instance, no doubt, sometimes make mistakes, but the same may be said of higher tribunals, and it is just conceivable that if there were a court beyond the House of Lords the decisions even of that august body might meet the fate of less distinguished judicatories. That there must be an end of litigation somewhere is universally conceded, and the proposal to make the Court of Appeal the terminus in the generality of cases is to be welcomed. The power reserved by the Bill to enable leave to be given either by that court or the House of Lords to carry any particular case to the latter tribunal is not likely to be acted upon save in very exceptional cases, and is probably only a step leading eventually towards the complete abolition of the judicial functions of the Upper House.

Extent of Newspaper Privilege.

THE limits of the defence of privilege as applied to newspaper comment were firmly laid down by Mr. Justice SWIFT on 20th April in *Standen* v. *South Essex Recorders, Ltd., and Another* (*The Times*, 21st April), an action which subsequently failed on the other issues raised (*The Times*, 24th April). The alleged libel was contained in a letter to the defendants' newspaper, *The Romford Recorder*, containing an allegation that a member of Hornchurch Urban District Council had abused his position as a member of the council to further his private interests. The defendants, in support of their plea of privilege, alleged that they had a common interest with their readers in securing that local government in the Hornchurch district should be carried on with strict regard to the interests of the ratepayers as a whole and the efficiency and honesty of such government, and without regard to the special interests of persons engaged or otherwise interested in the development of any particular estate in the said district. The proposition, his lordship said, really meant that every statement made in a public newspaper which was sold to the public was a statement made on a privileged occasion, but he could not agree. The authority of *Chapman* v. *Ellesmere and Others* [1932] 2 K.B. 431 (76 SOL. J. 248), which Mr. NORMAN BIRKETT cited on behalf of the defendants, was a strong authority for holding that the occasion was not privileged. It was clear, added his lordship, that the matter was of public interest and the defendants were entitled to make fair comment on it. The question of newspaper privilege is exceedingly difficult, especially in view of the statement of BUCKLEY, L.J., in *Adams* v. *Ward*, 31 T.L.R. 299, 304, that "if the matter is of public interest and the party who publishes it owes a duty to communicate it to the public, the publication is privileged, and in this sense duty means not a duty as a matter of law but . . . a duty recognised by English people of ordinary intelligence and moral principle." This was qualified by Lord HANWORTH, M.R., in *Chapman* v. *Lord Ellesmere*, *supra*, who stated (p. 457) that the learned judge meant by the words "is of public interest," "has already become of public interest." Newspapers are usually very careful nowadays, and *Standen* v. *South Essex Recorders* will most certainly not be the last occasion on which a newspaper will raise the defence of privilege.

Attractions to Children.

THE genius of the average child for being able to hurt himself with anything has already been commented upon in a previous article in this journal (77 SOL. J. 809). A further addition to the rapidly growing number of cases on the subject of children's negligence and the liability for placing allurements in the way of children, was made by the Court of Appeal recently in *Liddle* v. *North Riding of Yorkshire County Council* (78 SOL. J. 349). The defendants had been in the course of making a road improvement by rounding off a sharp corner and extending the road into a field. There was a wall on the roadside of a height of 4 feet 6 inches, but there was a sharp drop on the other side of about 18 feet into the field. A heap of soil had been left against the wall. The infant plaintiff clambered up the heap of soil and sat on the wall between his two companions. He began to demonstrate to them how bees flew, when he fell backwards and hurt his head badly. A jury awarded the plaintiff £1,500 damages and his father £62, and judgment was accordingly entered. Lord Justice SCRUTTON stated that the defendants took no action which injured the boy, such as starting a wire rope, as in *Excelsior Wire Rope Co.* v. *Callan* [1930] A.C. 404, or felling a tree when

the boy was near, as in *Mourton* v. *Poulter* [1903] 2 K.B. 183. The English law, however, had been very ready to find remedies for the injuries of children. (See per HAMILTON, L.J., in *Latham* v. *R. Johnson and Nephew, Ltd.* [1913] 1 K.B. 398, at p. 413.) His lordship agreed with the view of Mr. Justice SALMOND in his work on "Torts," 7th ed., p. 472, where he said: "The humanitarian impulse which prompts such decisions as that of *Railroad Co.* v. *Stout* (1873), 17 Wall (N.S.) 657, and seeks to impose upon the occupiers of premises a legal duty in the guardianship of infant trespassers, will in the long run do more harm than good. The duty of preventing babies from trespassing upon a railway line should rest upon their parents and not upon the railway company. The defendants had not been proved to have expressly or impliedly invited children on to their land, the jury were wrong in finding that the child was lawfully using the highway, and there was no evidence on which the jury could have found the defendants negligent. The heap of soil could not be said to be a nuisance on the highway, because (1) the verge on which the heap stood had not yet been cleared and dedicated to the public, and (2) the heap, in any case, did not cause the accident. The appeal was, therefore, allowed with costs. Many accidents are unfortunately unavoidable, and this is not least so in the case of children, in whose actions the element of incalculability plays a considerable part.

Income Tax and Repair Allowance.

A CONSIDERABLE amount of ingenuity must be required in these days to discover a novel point in Income Tax law which would appear to have been completely overlooked before. This, however, was done in *Egyptian House Properties* v. *Maynards Ltd.*, in which CLAUSON, J., delivered a reserved judgment (78 SOL. J. 349). The dispute was not between the subject and the Crown, but between landlord and tenant, and the facts were quite common. The plaintiffs had let premises in the Strand to the defendants at a rent of £550, and the defendants had sub-let at a greatly increased rent, so that the net assessment to Sched. A income tax was £730. Under the lease the plaintiffs covenanted to do external, and the defendants internal, repairs. The amount of tax for the year was £182 10s. and was paid by the defendants in February, 1933. On 25th March a quarter's rent became due, viz., £137 10s., and the defendants sent in an account deducting from the rent the same sum representing the amount of tax in respect of the rent of £550, leaving a balance of nil. The deduction is allowed under r. 4 of No. VIII of the Rules under Sched. A, but the rule contains the words in brackets "(the just proportion of any sums allowed by the Commissioners being first deducted)." The plaintiffs contended that the sum of £47 10s., being the "just proportion" of the repairs allowance, had first to be deducted from the annual rent, and that the defendants could only deduct tax from the balance of £502 10s., and they therefore claimed that the rent had been underpaid by £11 17s. 6d., or one quarter of the repairs allowance. The defendants maintained that the repairs allowance merely affected the amount which the Revenue could claim from the occupying tenants and for which the latter could claim recoupment from their immediate landlord, and did not affect the defendants' right to deduct 5s. in the £ from their rent. It seems fairly clear that the words in brackets authorise a deduction of an allowance from something; the question was, from what? CLAUSON, J., reviewed the history of the repairs allowance which was first instituted by s. 35 of the Finance Act, 1894. The Income Tax Act, 1918, had recast those provisions, but had made no difference to the position of the parties. The right of deduction from the gross rent was preserved by r. 11 of No. VIII, providing that as between the owner of property and any person entitled to any ground rent, rent-charge, annuity, or other annual sum payable thereout the owner's right of deduction is not to be affected by any relief under r. 7 of No. V, which provides for the reduction of the assessment by an allowance to a tenant undertaking repairs. In other words, the "just proportion" referred to in r. 4 is to be deducted not from the rent, but from the tax. The plaintiffs therefore failed and the action was dismissed, but as it was regarded as a test case an agreement had been made as to costs.

Infant Tortfeasor.

WE are all familiar with the rule of law which imposes upon the owner of a ferocious animal an absolute duty to keep it in security, and if he fails to do so imposes on him liability for any damage it may cause, for example, by biting or otherwise injuring a human being. The Civil Code of Louisiana, which provides that "the father, or, after his decease, the mother, are responsible for the damage occasioned by their minor or unemancipated children residing with them," appears to collocate an infant child with a wild animal, and therefore which the parent must keep in at his peril. Quite recently one of the courts of that State held a paterfamilias liable in damages by reason of his infant daughter having bitten her nursemaid, never having apparently done anything of the kind before. So the child, unlike the domestic dog, is to be deprived of the privilege of its first bite. The decision is arresting; as one American commentator says, "putting a child on the same plane with naturally ferocious species, such as tigers, rather than with gentle domestic animals, seems a bit incongruous." It appears that the court declared that a small child is a "potential source of danger" which seems a startling legal proposition though it may be in consonance with the lines of the lamented J. K. STEPHEN:

> "If all the harm that's been done by men
> Were doubled and doubled and doubled again,
> And melted and fused into vapour and then
> Were squared and raised to the power of ten,
> There wouldn't be nearly enough, not near,
> To keep a small girl for the tenth of a year."

The Chapel of the Garter.

A VERY interesting argument has been proceeding between the authorities of St. George's Chapel, Windsor, and the Rector of St. George's, Stamford, as to whether Windsor or Stamford—the ancient Lincolnshire borough which also has direct associations with the Order of the Garter—has the honour of being the original home of the senior Order of English Chivalry. The Stamford Rector bases his contention on three facts. St. George's Church, Stamford, was built in 1420 by William Bruges, then Garter King-at-Arms. It was provided with stained-glass windows depicting King Edward III, founder of the Order, the Black Prince and the original twenty-four Knights of the Order. There is also an extant record which proves that in 1449 the priests of St. George's, Stamford, were granted permission to wear the Garter motto on their vestments. About the year 1670, Stamford's Garter windows were lost, and the story goes that they were removed and replaced by plain glass in order to provide more light. Before that, however, a series of coloured engravings was made which are now in the possession of the Earl of Winchilsea. It is argued that if Windsor was really the headquarters of the Order, it would have had at least as fine windows, and these windows would have been transferred to the present St. George's Chapel. On the other hand, the authorities at Windsor maintain that the original Henry III Chapel was altered by Edward III for the use of the Order. Many of the stall-plates in the present chapel bearing the arms of knights date from long before 1475 and were removed from the earlier chapel. They also point out that the original Constitution provided that the Knight Companions of the Order were to assemble annually on the eve of St. George in St. George's Chapel. Antiquaries will await with interest the further developments of a very interesting dispute. Stamford itself, if we mistake not, has a much longer history than Windsor.

Distraint in relation to Agricultural Tenancies.

THE general law relating to distress is varied by the Agricultural Holdings Act, 1923, ss. 34 to 37 of which require to be read into the general law on the subject, and supersede to that extent the provisions of the ordinary law applicable alike to agricultural and non-agricultural tenancies.

Section 34 limits the right of a landlord of an agricultural holding to distrain for rent which became due in respect of that holding more than one year before the making of the distress. To this, however, there is a most important proviso which at the present time in all probability applies to the vast majority of farming tenancies—

> "Provided that, where it appears that *according to the ordinary course of dealing* between the landlord and the tenant of the holding the payment of rent has been deferred until the expiration of a quarter or half-year after the date at which the rent legally became due, the rent shall, for the purpose of this section, be deemed to have become due at the expiration of that quarter or half-year, and not at the date at which it legally became due."

The first question which arises here is as to the meaning of the expression "ordinary course of dealing." This arose in the case of *Re Bew, ex parte Bull* (1887), 18 Q.B.D. 642. In that case payment of the rent, which was due half-yearly in June and December, had always been deferred until September and March respectively. The tenant having become bankrupt, a question arose between the Official Receiver and the landlord which resulted in an action by the former at York County Court claiming part of the proceeds of a distress levied by the landlord. The county court judge made an order against the landlord, but the Divisional Court reversed this, and in doing so gave a decisive interpretation of the meaning of the proviso (which appeared in the same terms in s. 44 of the Agricultural Holdings Act, 1883). Cave, J., in giving judgment, said this :—

> "The object of the section is to take away the right to distrain for rent which has been due for more than twelve months; but the landlord still has all his other remedies. There was no intention to affect the rent until it had been due for more than a year. In the present case, on June 24th, 1885, a year's rent became due; on June 24th, 1886, another year's rent became due. On June 23rd, 1886, the landlord could have distrained for the year's rent which became due on June 24th, 1885; on June 25th, 1886, he could have distrained for the rent which became due on June 24th, 1886. But the landlord was accustomed to allow the tenant three months before he expected payment of any part of the rent, and therefore by the proviso in the section, he had three months longer to distrain for the rent, which became due on June 24th, 1885, and the distress in the middle of September, 1886, was good. It was contended that if the landlord takes advantage of the proviso he loses his right to distrain until the next rent is three months in arrear, but the Act does not say so; it does not provide that a landlord shall not distrain for more than a year's rent at a time: it only provides that he shall not distrain for rent that is more than twelve months overdue. Here the custom and the proviso keep the right to distrain open for three months longer."

It is a little difficult to regard this interpretation of the section as being quite equitable, however binding it may be as a judicial decision. It is only just that if rent became due, say, at 24th June, 1885, and the landlord was in the habit of allowing three months' grace, his right to distrain being limited to a year should be calculated as for a year beyond the three months' grace he had been generous enough to allow; but why the unfortunate tenant should not still be allowed to enjoy the three months' grace to which he has been accustomed, but should be kept liable to distraint the day after his rent became legally due if his landlord (or his landlord's executors) think fit to levy such distraint, is not very evident. That, however, is the effect of the judgment cited; and if an agricultural tenant desires to have a period of grace he must take care that it is provided for in the agreement of tenancy. Many agricultural agreements do, in fact, provide for such a period of grace, e.g., for Michaelmas rent to be payable at Christmas. Whether custom could be allowed to operate to the extent of varying the terms of a provision in a written contract of tenancy, having regard to the expression "according to the ordinary course of dealing," and seeing that custom was definitely applied by Cave, J., as operating *with* the proviso in favour of the landlord, has never been decided.

Passing on now to the question of what may and what may not be distrained in respect of the rent of an agricultural holding, it will be well to have the whole of s. 35 clearly in view :—

> "35. (1) Where live-stock belonging to another person has been taken in by the tenant of a holding to be fed at a fair price, the stock shall not be distrained by the landlord for rent where there is other sufficient distress to be found, and, if so distrained by reason of other sufficient distress not being found, there shall not be recovered by that distress a sum exceeding the amount of the price agreed to be paid for the feeding, or any part thereof which remains unpaid.
>
> "(2) The owner of the stock may, at any time before it is sold, redeem the stock by paying to the distrainer a sum equal to such amount as aforesaid, and any payment so made to the distrainer shall be in full discharge as against the tenant of any sum of the like amount which would otherwise be due from the owner of the stock to the tenant in respect of the price of feeding.
>
> "(3) Any portion of the stock so long as it remains on the holding shall continue liable to be distrained for the amount for which the whole of the stock is distrainable.
>
> "(4) Agricultural or other machinery which is the property of a person other than the tenant, and is on the holding under an agreement with the tenant for the hire or use thereof in the conduct of his business, and live-stock which is the property of a person other than the tenant and is on the holding solely for breeding purposes, shall not be distrained for rent."

Agistment may be for consideration other than money, as, for example, when milch cows are allowed pasturage in consideration of a supply of milk to the owner or occupier of the land. If then a distraint be levied upon cattle belonging to a third party which are out at pasturage on some such terms, the court may have to decide whether they are being agisted "at a fair price"—and that can, of course, only be done by reducing the milk supply to its value in money. In *Masters* v. *Green* (1888), 52 J.P. 597, cattle were distrained while on a holding on the terms of an agreement which gave the owner, in consideration of £2 paid to the tenant, the "exclusive right to feed the grass on the land for four weeks." The court held that these cattle had not been taken in "at a fair price," and therefore, that they were not privileged from distress, It will also be observed that by cl. (3) if any part of the stock has been driven off the land by the owner before the agistment money has been paid, those that are left may be distrained for the whole amount due and unpaid; whilst machinery on hire and live-stock belonging to a third party and left with the occupier solely for breeding purposes are not distrainable.

The question whether agistment involves the breach of a covenant not to sub-let without the consent of the lessor was raised in *Richards* v. *Davies* [1921] 1 Ch. 90, where it was decided by P. O. Lawrence, J., that the sale or letting of grass keep on a farm constitutes the use and occupation by the owner of the cattle of part of the lands within the meaning of a covenant by the tenant not to underlet or permit any other person to use any part of the lands without the consent of the

landlord, and, consequently, that the consent of the landlord must be obtained.

Section 36 deals with the legal method of dealing with any question of wrongful distress in connection with agricultural holdings. It provides that all questions relating to (*a*) distress levied contrary to the provisions of the Act; or (*b*) as to the ownership of live-stock distrained or the price to be paid for feeding; or as to any other matter or thing relating to a distress on a holding; is to be heard and determined either by the county court or by a court of summary jurisdiction. From the latter appeal lies to Quarter Sessions. Either court may order restoration of stock or things distrained or make such other order as justice requires. It is to be observed that the section uses the word "may." It does not exclude procedure in the High Court.

Finally, by s. 37, where compensation for disturbance or for improvements (not for game—that is omitted) has been ascertained before a landlord distrains for rent, its amount may be set-off against the rent demanded and the landlord may then only distrain for any balances.

Costs.

NOTES ON COPIES.

THE expense of copying documents in an action often forms a very large part of the costs of the action, and not infrequently difficulties arise in this connection during the course of the action, and also on the taxation of the costs. A few notes on the subject may therefore prove of interest.

Certain documents may be and other documents must be printed for use. All pleadings of more than ten folios in length must be printed: see Ord. 19, r. 9. The solicitor printing is allowed 4d. per folio for making a copy for the printer, and may charge in his bill of costs the actual payment to the printer, less any credit in respect of prints taken by the other side. The normal number of prints struck off is twenty, and this is regarded as a reasonable number in a party and party taxation. The opposite party is entitled to demand from the solicitor printing the documents such copies as he may require, not exceeding ten, upon payment at the rate of 1½d. per folio: see Ord. 66, r. 7 (*c*). The statutory increase of costs granted by r. 10 of Ord. 65 does not apply to this charge.

In addition to charging the printers' bill in the costs, the solicitor is entitled to charge for each print authorised to be charged at the rate of 2d. per folio. The documents in respect of which this charge of 2d. per folio is allowed are (*a*) pleadings for delivery or filing, (*b*) special case for filing, (*c*) pleadings, special case or petition for the use of the judge or court, (*e*) pleadings or other documents for the use of counsel, (*f*) affidavit to be sworn to in print. No other prints may be charged for in the bill of costs, so that the profit costs on prints of pleadings supplied, say, to expert witnesses, will not be allowed on a taxation as between party and party, nor will the profit costs of prints supplied to clients be allowed in a solicitor and client taxation. Moreover, no prints of documents other than those mentioned in Appendix N. (Fees 112-117) will be allowed, and in particular, prints of evidence for the use of the judge can only be charged in the bill at the actual cost, that is, without the addition of any profit costs. Prints of evidence for the use of counsel in court may, however, be charged in the bill at the rate of 2d. per folio.

Prints supplied as close copies may also be charged in the bill of costs at 2d. per folio, but the ordinary limitations as to close copies will, of course, apply. The statutory increase of 25 per cent. applies to this charge of 2d. per folio for printed copies of documents, and the same profit costs may be charged by the party taking prints as by the party printing.

Subject to the requirements mentioned above, copies may be typewritten or handwritten for the use of the court or counsel, the proper charge being 4d. per folio: see Fee 103, Appendix N. This charge applies only to "top" copies, see *Re Morse, Ex p. Latimer, Clark & Co.* (1891), 7 T.L.R. 591, so that where several copies are taken at the same time then the fee of 4d. per folio does not apply. The general practice is to allow 4d. per folio for the "top" copy and 2d. per folio for the carbon copies, with the addition of the authorised 25 per cent. increase.

The treatment of typelithoed documents in the bill of costs also calls for attention. Such documents are neither printed nor typed, and the method of dealing with the cost of such copies is, to some extent, a compromise. Thus, the party who has the document typelithoed, may charge for copies used in the course of the action, that is, the copies of documents for which a solicitor is authorised to charge, as explained above, at the rate of 4d. per folio, but will ignore the actual cost of typelithoing. The opposite party's solicitor will purchase from his opponent the requisite number of copies, and will pay a proportionate part of the stationers' charges, and he will also charge in his bill for the copies used, at the rate of 4d. per folio. In short, the solicitors are permitted to treat typelithoed documents in exactly the same way as ordinary typed documents, the cost of the typelithoing being regarded as analogous to the cost of getting a document type-copied at the stationers.

The copies which will be allowed in an action in the High Court are two sets of pleadings to be lodged in court, as well as a copy of all other material documents for the use of the judge, and a copy or copies for counsel according to the number of counsel employed. The solicitor will not, of course, be allowed to charge for a copy of the document for his own use, since he will use the original bundle. As to what documents will be regarded as material will be a matter entirely for the discretion of the taxing master, and in exercising his discretion he has to determine what documents are necessary for the proper argument and decision of the case: see *Budgett* v. *B.* [1895] 1 Ch. 202.

The normal charge of 4d. per folio for copying documents in an action is for documents in the English language. The charge for copies of documents in a foreign language or facsimile copies in the English language is customarily allowed at the rate of 6d. per folio, although there is no statutory authority for this allowance.

Company Law and Practice.

THERE can be few sections of the Companies Act, 1929, which are so fundamentally important as s. 25. For that is the section which defines a member of the company. Like so many other important sections it is short and to the point, but the consequences which flow from it are many, and the decisions and interpretations which affect it are very considerable in number. Here it is: "Sub-section (1) Subscribers to the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members. Sub-section (2) Every other person who agrees to become a member of a company, and whose name is entered upon its register of members, shall be a member of the company."

Membership of the Company.

It will be seen at once that the register appears to be the all-important factor in determining membership. If a man's name appears on the register, he is a member; if it does not, he is not a member. But it has been held that it is not conclusive evidence of membership, for, as we know, the register can be rectified by striking a name off that should not be there, or by putting a name on the register which has been omitted by mistake or fraud. However, s. 102 of the Act provides that the register is, *primâ facie* evidence, though

only *primâ facie*. It was held in *Briton Medical Association*, 39 Ch. D. 61, that even in proceedings in which the register cannot be rectified, e.g., in proceedings before a magistrate for penalties, evidence may be adduced to show that the register is incorrect. Speaking of the Companies Clauses Act, Lindley, J., laid down the following propositions with regard to the register of members in *Portal* v. *Emmens*, 1 C.P.D. at 212: (1) If a proper register is kept, that register is *primâ facie* evidence that a person whose name is on it is a shareholder; (2) if, in addition, it be proved that such person has become, by subscribing to the prescribed sum or otherwise, entitled to a share in the company, the evidence that he is a shareholder is conclusive; (3) if there be no register, or if the register is so defective as to be inadmissible in evidence, other evidence must be adduced to show that the person is a shareholder. The above statements must apply equally well to the provisions of the present Act.

The section, as we have seen, provides that two classes of persons are members, i.e., subscribers to the memorandum and persons who have agreed to become members and who are on the register. The very fact of signing the memorandum means that the subscriber contracts to take the number of shares for which he signs, and he must take up the shares and pay for them. It was held in *Evans' Case*, 2 Ch. 427, that the fact that no shares have ever been allotted to him, and that his name has never been registered, does not relieve him of his obligation as a member of the company. But in *Mackley's Case*, 1 Ch. D. 247, a rather curious position arose in this connection. M was a subscriber to the memorandum, but he took no further part in the management of the company, and was never treated as a shareholder. His name never appeared on the register of members, and in fact the entire capital was allotted to other persons. The position was therefore that the company were unable to perform the contract with M because there were no shares which could be allotted to him. He was therefore held not liable as a contributory. In *Migotti's Case*, 4 Eq. 238, it was held that the subscribers to a memorandum are bound to take as many shares as they have subscribed for, whether or not the shares are actually allotted to them, and this obligation is not satisfied by the allotment at a subsequent period of nominally fully paid-up shares. It does not matter that the allotment actually made to the subscriber is a larger number than that for which he subscribed, for the contract will be equally well satisfied. Nor does it matter that the capital allotted is represented by a different class of share, e.g., preference shares instead of ordinary shares, so long as the amount of capital is taken up. Furthermore, the subscriber must take and pay for his shares from the company itself, as that is the contract. So his obligation will not be fulfilled by a transfer of the shares from someone else: see *Migotti's Case*, *supra*.

As far as the payment is concerned, it need not be payment in cash, but may be payment in money's worth. That is to say, there may be a set-off in respect of a debt due to the subscriber from the company which will satisfy his obligation to pay for the shares just as well. I do not propose to-day to pursue this question further as we have discussed it at some length when considering the question as to what amounts to a payment in cash for shares. To reiterate, it is necessary to show that the subscriber has taken his shares from the company, and that he has paid for them to the company. The subscriber's obligation must be satisfied by a payment in money or money's worth. The exchange of cheques backwards and forwards between the promoter, the subscriber, and the company, is not payment: see *Leeke's Case*, 11 Eq. 100, where it was clear on the facts that no money was ever paid for the subscriber's shares at all.

Let us now turn to the second definition of a member propounded by s. 25, and consider a few points in connection with persons who have agreed to become members and whose names are on the register. Subscribers to the memorandum are as we have seen *ipso facto* members, but in the case of the second class of members it is necessary to show that they have agreed to become shareholders. There was, prior to 1901, considerable difficulty over the question whether or not a director of a company whose articles prescribed a qualification shareholding for its directors, by becoming a director agreed to take the number of shares necessary for his qualification. But very shortly the answer to the question was that such a director accepted office on the terms upon which that office was offered, and that he might be made liable as a contributory for his shares, whether he held them or not. But s. 141 of the Act, which applies to all companies, whether formed before or after 1901, supersedes the older decisions on the subject, as it provides that directors must obtain their qualification shares within two months (or sooner if the articles so provide) of their appointment. If the qualification is not obtained within that time the office of director is declared by the section to be vacated. But a qualification clause does not, nor does s. 141, mean that a director must obtain his qualification shares from the company itself. He is not, therefore, in the same position as a subscriber to the memorandum.

In the case of a person who is neither a subscriber to the memorandum nor a director, the question as to whether or not he or she is a member is a question of mixed law and fact. There must be an agreement to take shares, but that agreement need not be in writing. It has been held that a verbal application followed by an allotment is sufficient: *Re Olympic Reinsurance Co.* [1920] 1 Ch. 523. The ordinary principles of contract of course apply to the contract to take shares in a company. There must be an acceptance by the company actually communicated to the applicant, or to his agent in that behalf. The application may be withdrawn at any time before the actual allotment, or before the communication of the allotment to the applicant. With regard to the means of communication, the well-known words of Lord Herschell, in *Henthorn* v. *Fraser* [1892] 2 Ch., at p. 33, are the *locus classicus* on the subject. He laid down the following rule: Where the circumstances are such that it must have been within the contemplation of the parties that according to the ordinary usages of mankind the post might be used as a means of communicating the acceptance of an offer, the acceptance is complete as soon as it is posted. The principles really may be summed up in the two following propositions. An offer is made when, and not until, it is communicated to the offeree. Acceptance is communicated when it is made in a manner prescribed or indicated by the offeror.

I need hardly say that I have not the space to do more than touch the fringe of a very wide subject this week, but I hope to amplify what I have already said, and to go more deeply into the substance of membership at a later date.

A Conveyancer's Diary.

Contribution to Losses Incurred by a Breach of Trust.

I HAVE recently had to consider the question of the incidence of losses falling upon a trust estate by reason of a breach of trust, and that has led me to look at the subject generally.

The most useful guidance on the subject that I have been able to find is in Mr. A. H. Withers' valuable book on "Reversions." The learned author in a succinct manner summarises the law, and tells us exactly how the matter stands so far as it has at present been laid down in the authorities, and I make no apology for borrowing from his book with some additional observations of my own arising out of actual experience.

In the first place it is, as Mr. Withers says, "Obvious that beneficiaries must bear in proportion to their respective interests losses (1) for which the trustees are not responsible,

e.g., losses caused by depreciation of investments properly made or by the mistakes, etc., of agents properly employed; (2) for which the trustees have been relieved from liability under s. 62 of the Trustee Act, 1925; and (3) for which the trustees are liable, but which they are unable to make good."

There are, however, cases where the question is not easy of determination. I mean whether the loss should fall upon a fund as a whole or on some specific part of it.

Generally, I think that the principle adopted by the court has been that where there has in fact been an appropriation of a fund to answer a legacy or annuity, and there has for some reason (possibly the defalcation of trustees) been a loss, that fund alone is liable to make good the loss. When there has been no such appropriation, all the persons interested must share in the loss.

The general principle was laid down in *The Liquidation Estates Purchase Company Limited* v. *Sir John Christopher Willoughby and Others* [1898] A.C. 321.

It may be noted with regard to that case that the head-note does not indicate what the real decision was, at any rate for the present purposes, and consequently had not found its way into the text-books dealing with the subject until Mr. Withers, with that perspicacity for which he is so well known, dug it out.

The head note reads:—

"The purchaser of an equity of redemption took an assignment of a charge upon the property and paid off the incumbrancer. There being no evidence in the deed or the circumstances of any intention to extinguish the charge and it being for the purchaser's benefit to keep it alive,

"*Held*, reversing the decision of the Court of Appeal [1896] 1 Ch. 726, that the charge was not extinguished."

Of course, no one could glean from that head note that the case was a really most important one upon the question with which I am concerned. Nevertheless, the judgments are definite and most instructive.

The facts were, no doubt, rather complicated, although Lord Halsbury, L.C., commenced his judgment in his usual manner by saying that "The facts out of which this appeal arises may be very simply stated." Everything always seemed to be very simple to that learned and distinguished Lord Chancellor.

This is what happened: One, Walker, entered into a contract for the purchase of a business for £562,000. He was to pay a deposit of £25,000 which he had to bring into court. To enable him to make that payment he obtained loans from three persons, Paulet, £9,000; Willoughby, £10,000; and Kennedy, £6,000. This £25,000 was advanced on the terms that the lenders should be repaid their advances rateably. Walker was, however, to manage the business. Then Kennedy who had advanced £6,000, part of the £25,000 deposit, charged his interest in the agreement to Norton for £6,200. Notice of this charge was given to Walker. Walker sold the business at a considerable profit, and in spite of the notice which he had received from Norton paid Kennedy a sum of money and transferred to him certain property representing the remainder of his share in the profit which Walker had been able to obtain on the transaction.

That, I think, fairly represents the facts. Afterwards disputes arose upon further arrangements made by Kennedy, and the question was upon whom the loss should fall—that is, the loss occasioned by Walker paying Kennedy in disregard of the notice which he had received of Norton's charge. Was the loss to fall on Norton, or was it to be borne out of the whole fund?

In his judgment Lord Halsbury said: "I am unable to understand in what way Walker's improper use of his possession of the property realised by the resale can affect Norton's rights, or any person claiming under Norton. If, instead of handing it over to Kennedy, he had been robbed of it, and all that remained of the property was insufficient to pay all the persons having rights under it, why should Kennedy's assignee be in a less favourable position for receiving his proportionate amount because the whole fund had been diminished by the unlawful act of the robber? Can it make any difference that Walker, in defiance of his duty, thought proper to divert a certain sum of money from the gross fund in favour of Kennedy at a time when to his knowledge Kennedy had no right to receive it? What Norton, in right of Kennedy's previous rights, was entitled to was the amount of his debt from Kennedy; and why Norton should be selected as the victim of a loss to which he in no way contributed I am unable to understand. Lindley, L.J., uses the phrase that he did not understand why Norton's loss should be thrown on the other adventurers. It appears to me that the words 'Norton's loss' involve the fallacious assumption that in some way or another the share that had at one time belonged to Kennedy and which, by the hypothesis at the time of handing over to Kennedy, no longer belonged to him, must be so ear-marked as already Norton's that it becomes Norton's loss; but this, I think, is erroneous. If the whole fund created has been *pro tanto* diminished by an unlawful act of the person who, by the agreement of all the parties, was the custodian of the money and the person through whose hands it was to be distributed, it appears to me that the observation to which I have referred might be retorted and it might with propriety be asked: Why should the part of the loss which was a loss to the whole fund be appropriated to one particular adventurer or the assignee of that adventurer? No one has ever yet explained what Norton did or what Norton omitted to do which made him more responsible for a loss of any part of the fund than any other one of the adventurers."

I hope to pursue this subject next week.

Landlord and Tenant Notebook.

Leave to appear and defend in Ejectment Proceedings.

An action for ejectment or recovery of land is an action *in rem*, and a judgment in the plaintiff's favour is executed by putting him in possession of the premises claimed. The sheriff or bailiff is not concerned with the question whether those he finds in occupation were defendants in the action.

The possibility of collusive proceedings was first guarded against by statute: first 11 Geo. 2, c. 19, s. 13, and then the Common Law Procedure Act, 1852, s. 172. But now the matter is one of practice; in the High Court, R.S.C., O. XII, r. 25, and in the county court Ord. 10, r. 4, provide for appearance by leave of any person not named in writ or summons on filing an affidavit showing that he is in possession of the land or property either by himself or by his tenant.

Legislation of this kind became necessary when the rule by which everyone in possession had to be sued was abolished. The enactments protecting the innocent and ignorant against the devices of the crafty and unscrupulous are indeed calculated to make law approximate to justice; as Vice-Chancellor Bacon, who had frequent dealings with this kind of case, once observed: "I cannot refuse the claim of the person whose house and home are threatened by an action of ejectment to defend such an action, nor does the law allow me to refuse it": *Langbourne* v. *Fisher* (1878), 47 L.J. Ch. 379.

What argument there has been has centred round the word "possession," a term which always invites discussion. The applicant has to have possession, by self or by tenant; this, of course, does not mean that one or the other has to be in actual occupation; but what degree of control or what right of access is necessary? The attitude of the courts towards this question may be said to have been defined soon after the passing of the Common Law Procedure Act, 1852, s. 172,

itself, when an application was made by a box-holder in the Queen's Theatre or Opera House (now, I believe, His Majesty's Theatre) in the course of the action of *Croft* v. *Lumley* (1855), 4 E. & B. 608, in which the plaintiff, as reversioner, sought to forfeit the lease of the theatre held by the defendant. Boxes (and stalls) were then, as readers may be aware, dealt with differently from the way in which they are disposed of nowadays; a theatre-goer would "take" a box for a long period, his contract giving him the right to occupy it at any performance; but he had no right of access when there was no performance. The application was opposed on the ground that whatever the applicant had, it was not "possession"; but was granted on the ground that his affidavit showed a *primâ facie* case, so he was let in to defend. But an application in the same case by a judgment creditor of the lessee who had taken out but not executed a writ of *elegit* was refused, the section not covering an inchoate right of possession.

A case which is cited as an illustration of the wide scope of Ord. XII, r. 25, but which seems rather puzzling, is *Minet* v. *Johnson* (1890), 63 L.T. 507, C.A. The plaintiff in that case obtained judgment for possession against the applicant, and thereupon one H., who was in possession and who had not heard of the action and who did not claim to hold through the defendant, took out a summons to set the judgment aside. The summons alleged that the writ in the action had not been directed to persons in possession, nor had the affidavit on which leave to sign judgment in default said that the writ had been so directed. The Master ordered the plaintiff to withdraw, provided the applicant elected within twelve days to be added as a defendant, costs to be costs in the cause. The applicant, objecting to the terms, appealed unsuccessfully to the judge, and equally unsuccessfully to the Court of Appeal—where it was observed, however, that the order should have made provision not only for the withdrawal of the plaintiff, but also for the re-delivery to the applicant. Now this seems very meet and proper—but what troubles me is that the court purported to apply Ord. XII, r. 25, which hardly seems designed to cover a case in which judgment has been obtained, rather than Ord. XXVII, r. 15, which gives power to set aside a judgment obtained by default.

The latter rule was applied in *Jacques* v. *Harrison* (1884), 12 Q.B.D. 165, C.A. The action in this case was ejectment for forfeiture against a building tenant. It was clear that the tenant sued had lost interest in his contracts, though there was no evidence that he and the plaintiff had been in collusion. The people really interested were a building society—in liquidation—who were equitable mortgagees. The official liquidator, having learned that the plaintiff's forfeiture notices had been decidedly defective, applied (after a little official delay) to the Court of Chancery to have the judgment set aside and the blot on the mortgagees' title thus removed. The Court of Chancery, having no such power, referred him to the King's Bench Division. He did not make the defendant a party to the application, and while this was ultimately granted on condition that notice was given to the defendant—all parties to have liberty to apply—Bowen, L.J., pointed out that defendants should be made parties in such cases in order that they may dispute the application, if desired, and also in order that they may claim indemnity when entitled to it.

Our County Court Letter.

THE REMUNERATION OF ESTATE AGENTS.

In the recent case of *Drivers and Norris* v. *Costi*, at Clerkenwell County Court, the claim was for £42 15s. as commission, or alternatively as damages for breach of contract. The plaintiff's case was that (1) having been instructed to sell a house for £1,650, they obtained an offer of £1,400 which they were instructed to accept—subject to contract; (2) the prospective purchaser thereupon signed the contract and paid a deposit, but the defendant not only refused to sign it (as vendor) but instructed the plaintiffs to return the deposit; (3) the reason was that she had accepted an offer of £1,500 from another purchaser—through different agents. The defendant contended that the matter had not passed beyond the stage of negotiation, and that she was not liable—by virtue of the decision in *Raymond* v. *Wootton* (1931), 47 T.L.R. 606. His Honour Judge Konstam, K.C., upheld this contention, and observed that where a vendor instructs an agent to accept an offer (subject to contract) it is still permissible to sell the house through another agent for a better price—without any liability to pay the original agent's commission. Judgment was therefore given for the defendant, with costs. The above quoted case is difficult to reconcile with the slightly earlier decision in *Kingham* v. *Simmons* (1931), *Estates Gazette* at p. 225, both cases having been decided by the same Divisional Court, viz., Mr. Justice Swift and Mr. Justice Charles. The authorities on each side of the line were recently reviewed by Mr. Justice Horridge in *George Trollope and Sons* v. *Martyn Bros.* (1934), 50 T.L.R. 228, in which *Raymond* v. *Wootton*, *supra*, was distinguished, and the estate agents thus recovered damages. Compare a previous note under the above title in the County Court Letter in our issue of the 17th March, 1934 (78 Sol. J. 188).

ADDED PERIL AND WORKMEN'S COMPENSATION.

In *Fisher* v. *Fishpond Sand and Gravel Co. Ltd.*, recently heard at Lichfield County Court, the applicant's case was that (1) her late husband was an engineer, in charge of gravel crushing machinery, near which he had been found badly injured; (2) he had evidently been whirled round the wheels, but (in hospital) he had stated that he did not know how it happened. The respondents' case was that (*a*) the deceased ought not to have entered the shed while the machinery was running, as his duty was to do the greasing, which should only be done while the machinery was standing; (*b*) the greasing had been done at the proper time, and there was no need for the deceased to enter at the time of the accident, and he had not taken any grease pans or tools with him; (*c*) his sleeve must have been caught in the wheels, but this was by reason of his having voluntarily added a peril to the employment. His Honour Judge Ruegg, K.C., remarked that (1) there had been no prohibition against the deceased entering the shed; (2) the machine was not properly fenced, merely by being enclosed in a shed, even if (as stated in evidence) this protection had previously been approved by the factory inspector as adequate. An award was therefore made in favour of the applicant and her three children, viz., £600 and costs.

SECOND ACCIDENT AND WORKMEN'S COMPENSATION.

In the recent case of *Dangerfield* v. *Bristol Corporation* at Bristol County Court, the applicant's case was that: (1) while unloading grain at Avonmouth (on the 26th November, 1929) he had been walking upon a plank from the ship to the quayside; (2) in consequence of a slip, he had fallen and fractured his arm, in respect of which he had received 30s. a week (as compensation) for eighteen weeks, and afterwards 15s. a week for twelve months; (3) although his pre-accident wages were £3 2s. 6d. a week, he had since been unable to obtain work—by reason of the number of able-bodied unemployed. The respondents' case was that any incapacity was not due to the above accident, as the applicant had admittedly had an earlier accident—in 1926. His Honour Judge Parsons, K.C. (sitting with a medical assessor), held that, although the applicant was only fit for light work, the incapacity was referable to the accident of 1926, and not to the accident the subject of the claim, viz., that in 1929. Judgment was therefore given for the respondents, with costs.

Land and Estate Topics.

By J. A. MORAN.

THE wish on the part of the public to patronise the market for real estate is as much in evidence as ever. True, the Whitsun holiday had a disturbing influence, but only for a short while. In fact, the London Auction Mart started to get busy before the festive spirit had gone; and much the same condition of things prevailed in all the large industrial centres. There is no doubt that the small investor continues to have a hankering after real estate, and as, of late, he has been in active competition with the speculator, it is not surprising that values are moving in an upward direction.

The activities of the Auctioneers & Estate Agents Institute are so well known and so keenly associated with all that is best in the profession, that an excellent Annual Report is always anticipated. If any surprise were expressed at the recent Annual Meeting, it concerned the great progress the Institute is making. Now and then one gets a bit mixed up with the various letters attached to the name of an auctioneer, and it is very satisfying to know that the public—or the vast majority of those people who matter—have begun to realise the significance of the letters that indicate membership of the leading organisation. The members of the Council, no doubt, accomplished great things; but they would be the first to acknowledge the assistance they got from Mr. Blake, the Secretary, and his capable staff. Mr. Blake has been a tower of strength to the Institute for many years, and there is general approval of the intention permanently to recognise his services by including his portrait among those at present exhibited in the Lecture Hall of the Institute.

Capt. Edward Brougham Glasier, the new President of the Institute, was born in 1880, and was educated at Rose Hill School, Tunbridge Wells, and afterwards at Harrow. On leaving college he was articled to his father, the late Mr. George Henry Brougham Glasier, the head of the well-known firm of Glasier & Sons, and when twenty-five years of age was admitted to partnership. In 1918, on the death of his younger brother Lieut.-Col. P. M. Glasier, D.S.O., on active service in France, he became the sole principal of his firm.

The new President, who has the energy and the initiative that go a long way to make for a successful year of office, is a prominent member of the Chartered Surveyors Institution. He is agent on many large estates all over the country and has an extensive general practice in London and the Home Counties.

The decision of the Government to repeal the Land Value Tax was long delayed. But to judge from the satisfactory state of the market, there was, all along, no doubt of its intention. The duty, based on an annual payment of a penny in the £ on the rateable value of land, did not, owing to political considerations, come into force at the time; it was shelved by the National Government and will soon be only a memory.

A striking instance of the improved demand for large tracts of land in country districts comes from the Nottingham border of Yorkshire. An estate of 1,519 acres, with an annual rent roll of over £2,000, was purchased privately by a speculator with a view to a subsequent sale, in lots, by public auction. As a matter of fact, the day was fixed for the sale, when another speculator turned up, with the result that the auction was called off, and the property changed hands once more.

The B.Sc. (Estate Management) Club has made rapid strides since its inauguration eight years ago; a fact that was very apparent to those who attended the recent annual dinner. The toast of "The University of London" was proposed by Mr. B. C. Adkin, the bearer of a name that is well known and highly respected in the world of estate management.

Mr. Hugh Brackett, P.A.S.I., A.A.I., of Tonbridge, has been taken into partnership by Messrs. Debenham, Tewson and Chinnocks. Mr. Brackett, who has specialised in rating, has been with the well-known Cheapside firm for some years.

I was not the only one who was startled at the heading given recently to some notes on the estate market in a leading daily newspaper. It ran thus:—

CLAPHAM COMMON.
SEAT SOLD.

At first sight this looked as if the London County Council was on the rocks, and had to sell a seat in one of its well-known areas of rest and recreation. But a glance at the letter-press showed that there was nothing more exciting than a few houses facing the Common were for sale, and a country mansion had just passed into other hands.

Obituary.

MR. H. H. JOY, K.C.

Mr. Henry Holmes Joy, K.C., Recorder of Nottingham, died at his home at Richmond, Surrey, on Tuesday, 22nd May. Educated at Sherborne and Trinity Hall, Cambridge, he was called to the Bar by the Inner Temple in 1900, and joined the Midland Circuit. He took silk in 1924. He was appointed Recorder of Nottingham in 1927, and in 1930 he was elected a Bencher of his Inn. He was appointed a Commissioner of Assize on the North-Eastern Circuit in February last. Mr. Joy was made O.B.E. in 1920.

MR. A. J. DUNNING.

Mr. Alfred John Dunning, solicitor, partner in the firm of Messrs. Dunning, Rundle & Stamp, of Honiton, died on Friday, 18th May, at the age of seventy-seven. He was admitted a solicitor in 1879, and in 1886 he entered into partnership with the late Mr. Edmund Stamp. Mr. Stamp died in 1888, and Mr. Dunning succeeded to a number of positions. He became Clerk to the Justices, a position he held till his death, and Registrar of Honiton County Court, an office from which he retired at the end of 1931.

MR. S. PARKER.

Mr. Samuel Parker, solicitor, of Bolton, died in a Manchester nursing home on Saturday, 19th May, at the age of fifty-nine. Mr. Parker, who was admitted a solicitor in 1896, had been Town Clerk of Bolton since 1905.

Books Received.

Mews' Digest of English Case Law. Quarterly Issue, April, 1934. By G. T. WHITFIELD HAYES, Barrister-at-Law. London: Sweet & Maxwell, Ltd.; Stevens & Sons, Ltd.

Constitutional Law of England. By EDWARD WAVELL RIDGES, of Lincoln's Inn, Barrister-at-Law. Fifth Edition. 1934. By A. BERRIEDALE KEITH, D.C.L., D.Litt., of the Inner Temple, Barrister-at-Law. Demy 8vo. pp. xlviii and (with Index) 672. London: Stevens & Sons, Ltd. 25s. net.

Reports on Public Health and Medical Subjects. No. 72—Report on the Bed-bug. 1934. London: H.M. Stationery Office. 1s. net.

Everyday Statutes Annotated. Consolidated Supplement of Statutes, 1929 *to* 1933. Edited by The Hon. DOUGALL MESTON, of Lincoln's Inn and South-Eastern Circuit, Barrister-at-Law. 1934. Royal 8vo. pp. viii and (with Index) 613. London: Sweet & Maxwell, Ltd.; Stevens and Sons, Ltd. 25s. net.

Everyday Statutes Annotated. Noter-up to December 31, 1933. London: Sweet & Maxwell, Ltd.; Stevens & Sons, Ltd.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Liability for Servant's Wages during Illness.

Q. 2975. A domestic servant has contracted scarlet fever, and has been removed to a municipal institution for such cases. She is entitled to benefit under the National Health Insurance Acts, and will no doubt receive the usual weekly payments. She is not liable to pay for her maintenance whilst in such institution. Is her employer (*a*) liable to pay the servant's wages during her incapacity? (*b*) If so, is he entitled to take credit for any sum she may receive under the National Health Insurance Acts? The point appears to have been decided in relation to the Workmen's Compensation Act (see *Warburton* v. *Co-op. &c. Society* [1917] 1 K.B. 669) and it appears that the same principle should apply to the above facts although it must be noted that the employee contributes to any benefit she may receive under the National Health Insurance Acts.

A. The position with regard to a joint contributory scheme was considered in *Niblett* v. *Midland Railway Co.* (1907), 23 T.L.R. 240, in which it was held that an employee was not entitled to wages while in receipt of sick pay. The friendly society was independent of the railway company, but the company contributed to the funds, and the employee was required to join as a condition of employment. There appears to be no distinction in principle between this case and the compulsory scheme of state insurance, and question (*a*) is answered in the negative. Question (*b*) therefore does not arise.

Settlement—Cesser with Death of Life Tenant—Refusal of Personal Representatives of Tenant for Life to Function—Remedy.

Q. 2976. The trustees of a settlement, which came to an end on the death of the tenant for life, have sold by public auction part of the real property. The trustees sold as trustees for sale, and the contract was duly signed. The purchaser now requires an assent by the personal representative of the deceased tenant for life under "Bridgett and Hayes' Contract." The personal representative of the deceased tenant for life refuses to sign anything. Can the trustees force the title on the purchaser? If not, is there any remedy against the personal representative of the deceased tenant for life?

A. We gather from the form of the question that the legal estate was in the tenant for life, and that after his death there is a reversionary trust for sale. This being so, the legal estate is now in the personal representatives of the tenant for life (*Re Bridgett and Hayes' Contract*, 71 Sol. J. 910), and the reversionary trustees for sale can only make a satisfactory title by first obtaining an assent from those personal representatives. The personal representatives have a positive duty to make such an assent (S.L.A., 1925, ss. 7 (5) and 8 (4)). If the personal representatives refuse to perform their duties in this connection the remedy would appear to be to obtain a vesting order under T.A., 1925, s. 44 (vi). For the purposes of that section the expression "trustee" includes personal representative (S.L.A., 1925, s. 68 (17)). It is to be noticed that the personal representatives are entitled to refuse to part with the land until the conditions mentioned in S.L.A., 1925, s. 8 (3), are satisfied. The purchaser is certainly justified in insisting upon the assent and in its absence the title cannot be orced on him.

Death of Life Tenant—Incidence of Estate Duty, Cost of Accounting for the Same and Cost of Assent in Favour of the Remainderman.

Q. 2977. We are acting for the personal representatives of a legatee under the will of a person who died in 1906. Under the said will certain freehold property was devised to a person for life and after her death to another person absolutely. The latter predeceased the tenant for life some years ago, and the tenant for life recently died. Her will has just been proved by another firm of solicitors, who have prepared an account for the payment of estate duty payable on the death of the tenant for life. They have paid the estate duty, and they claim to be paid their costs of preparing the account, in addition to the estate duty paid thereon. It is also necessary to obtain a vesting assent from the representatives of the deceased tenant for life to the representative of the deceased remainderman. It is presumed that the costs of preparing the vesting assent will have to be paid by the representative of the deceased remainderman and also the estate duty payable on the death of the tenant for life. Are the costs of preparing the estate duty account also payable by the representative of the deceased remainderman?

A. It is agreed that the estate duty, for which the personal representatives of the deceased life tenant are accountable (L.P.A., 1925, s. 16 (1)) will, in effect, fall upon the personal representatives of the remainderman (Finance Act, 1894, s. 9 (1), L.P.A., 1925, s. 16 (3)), and we see no reason to doubt that the personal representatives of the life tenant are entitled to claim payment of their costs of passing the account from those of the remainderman: S.L.A., 1925, s. 8 (3) (*b*). With regard to the costs of the necessary assent, we express the opinion that these are also payable by the personal representatives of the remainderman. (See in this connection the Opinion of the Council of The Law Society, expressed with regard to the Land Transfer Act, 1897, Pt. I, of 10th November, 1898, para. 1069, at p. 284 of the 1923 edition of "Law Practice and Usage," etc.)

Free Conveyance—Purchaser's Solicitor Preparing the Conveyance—Costs.

Q. 2978. A client of mine has agreed to purchase freehold property and in the contract is inserted a clause as follows:—

> "The vendor will on completion deliver to the purchaser free of expense a duly executed conveyance of the said property and pay the stamp duty thereon."

Does this clause entitle the vendor to insist on his own solicitor preparing the conveyance, or, if the purchaser's solicitor chooses to prepare the conveyance, can the vendor be compelled to pay the purchaser's solicitor's charges?

A. We express the opinion that the purchaser can, if so minded, employ his own solicitor (L.P.A., 1925, s. 48 (1)), but by doing so he waives the benefit of the condition, and the vendor cannot be compelled to pay the purchaser's solicitor's costs. In a case where the contract provided that the purchaser should have a free conveyance but did not state by whom it was to be prepared, and the purchaser employed his own solicitor, the Council of The Law Society expressed the opinion that the vendor was not bound to pay the charges of the purchaser's solicitor. (See Opinion of 25th May, 1894, "Law Usage, etc." 1923 edition, para. 758, p. 195.)

To-day and Yesterday.

Legal Calendar.

21 May.—John Singleton Copley was born in Boston, U.S., on the 21st May, 1772, the only future Lord Chancellor to be born in America.

22 May.—On the 22nd May, 1476, Sir Richard Bingham, formerly a Justice of the King's Bench, died at Middleton, where he was buried beneath a monument representing him in his judicial robes. For over twenty years, he had held office during the difficulties and fluctuations of the Wars of the Roses, when the King's Bench was firmer than the King's throne. Originally appointed by Henry VI, he was retained when Edward IV seized the Crown, and again during the brief interlude of Henry's restoration. By that time, he was considerably advanced in years, and on Edward's return, he retired from the Bench.

23 May.—There were some minor domestic disorders in Lincoln's Inn which were dealt with at the council held on the 23rd May, 1566. Two gentlemen having been called to the Bench of the Inn before they had served the offices of Butler or Pensioner are fined 53s. 4d. each. The next entry conveys a rebuke: "The Readers for the tyme being shall use moderate dyatt at their table and shall use no suche excesse therin as haith bene latelye used." Otherwise they will be fined. Finally, all the Inner Barristers are collectively fined "for not writing of the case, whereby the moote failed in Lent vacacion."

24 May.—"Poor dear little Jack! He lived with me for many years; and at last, I believe, some miscreant poisoned him, for he was taken very ill with symptoms of strychnine and died in a few hours in the early morning of 24th May, 1894. I was with him when he died. I never replaced him, and to this hour, have never ceased to be sad when I think of the merciless and cruel fate by which the ruffian put an end to his dear little life. He was buried under some shrubs in Hyde Park." Thus Mr. Justice Hawkins mourned the death of the little terrier which, accompanying him everywhere, had been the most famous legal dog of all time.

25 May.—On the 25th May, 1892, Sir Charles Butt, President of the Probate, Divorce and Admiralty Division, died suddenly of paralysis of the heart while he was trying the waters at Wiesbaden. He had been raised to the Bench in 1883, and when he succeeded Sir James Hannen in the Presidency in 1891, his health was already seriously impaired by hard work, although he bravely continued to discharge his duties, even when suffering intense pain. He left the reputation of a satisfactory, though hardly a great, judge, good tempered, popular and quick to master his cases.

26 May.—Neil Douglas, a Universalist preacher, appeared before the High Court of Judiciary at Edinburgh on the 26th May, 1817, charged with sedition. According to the indictment, he "did wickedly, slanderously, falsely and seditiously assert that His Royal Highness the Prince Regent was a poor, infatuated wretch or a poor, infatuated devotee of Bacchus, or use expressions of similar import," comparing him to Nebuchadnezzar, King of Babylon. Fortunately for the accused, the Crown witnesses did not come up to the evidence which was expected of them and he was accordingly acquitted.

27 May.—Sir Anthony Fitzherbert, a Justice of the Common Pleas, died on the 27th May, 1538, with his last breath exacting from his children a solemn promise never to accept a grant or make a purchase of any of the abbey lands, for though, bowing his head to the exigencies of the times, he had not withstood Henry and had even sat on the commission which tried Sir Thomas More, he never willingly lent his hand to the King's excesses. In his spare time, he was a farmer and wrote a "Boke of Husbandrie."

The Week's Personality.

Lord Lyndhurst was the only American-born Chancellor of England. At the time of his birth his father, John Singleton Copley, was making a good living as a portrait painter in Boston. His mother, a beautiful and accomplished woman, was the daughter of Richard Clarke, a leading merchant, who soon afterwards became famous as the consignee of the cargoes of tea thrown into the sea at the "Boston Tea Party." Had the father elected to remain in America, the genius of the son might well have given a President Copley to the United States soon to be brought forth. However, the gathering clouds which foreshadowed the War of Independence induced him to try his fortune on this side of the Atlantic, and in 1757 his family reached England. There young Copley grew up and eventually chose a legal career. However, despite his wonderful quickness of comprehension and strength of memory, his spirited and noble bearing and very agreeable manners, his progress was slow, and he suffered many lean years before recognition came and set him on the path which was to lead him three times to the Woolsack. According to Brougham's estimate, he was "immeasurably superior to his contemporaries and, indeed, to almost all who had gone before him . . . His good nature was perfect and he had neither nonsense nor cant any more than he had littleness or spite in his composition."

The Expert Witness.

In delivering the fifteenth Maudsley lecture before the Royal Medico-Psychological Society, Lord Macmillan had some interesting things to say on the failings of expert witnesses—the arrogance of assurance created by highly specialised knowledge, and also a constitutional tendency to differ. Though the expert is looming larger and larger in ordinary litigation, it is the Parliamentary Bar which encounters him in all his glory and learns how to handle him. Sir Frederick Bramwell, Lord Bramwell's brother, who acquired a considerable reputation in the committees as an engineering expert, was once very effectively cross-examined by the late Mr. Balfour Browne, K.C. "We all know your eminence as a witness," said the barrister, "but tell me what you have done as an engineer." "Not very much," was the admission. "Can I help you? You designed a floating dock for Bermuda, did you not?" "Yes." "And it would not float?" The witness grunted. "And you also designed, if I am not mistaken, the Caterham Lunatic Asylum?" Another eminent and omniscient expert, Thomas Hawksley, on being cross-examined as to law by a young counsel, said sharply, "Oh! I know all about the law." "Yes, Mr. Hawksley," retorted the young man, "but I know all about engineering."

The Home of the Law.

In the same discourse, Lord Macmillan, dealing with the professional mind, noted how men's habits were controlled, their thoughts canalized and their prejudices formed by their vocation. It might fix even their place of residence, as in the case of the Temple "where now the studious lawyers have their bowers." It is odd, however, that with half the legal profession settled from time immemorial within its borders, the explicit recollections of the Temple should be literary rather than legal. "I don't know," wrote Thackeray, "whether the student of law permits himself the refreshment of enthusiasm or indulges in poetical reminiscences as he passes by historical chambers, and says: 'Yonder Eldon lived—upon this side, Coke mused upon Lyttleton—here Chitty toiled—here Barnwell and Alderson joined in their famous labours—here Byles composed his great work upon Bills, and Smith compiled his immortal Leading Cases—here Gustavus still toils with Solomon to aid him,' but the man of letters cannot but love the place which has been inhabited by so many of his brethren." The legal mind, however, exhausted by precedent in case law, does not spend the energy of recollection on its place of abode.

Notes of Cases.

Court of Appeal.

Turton *v.* Turnbull.

Scrutton, Greer and Slesser, L.JJ. 25th and 26th April, 1934.

LANDLORD AND TENANT—NOTICE TO QUIT—COMPENSATION FOR DISTURBANCE REASONS COVERING LETTER—AGRICULTURAL HOLDINGS ACT, 1923 (13 & 14 Geo. 5, c. 9), s. 12.

Appeal from the Stokesley and Guisborough County Court.

In June, 1931, the tenant of a farm held under a tenancy from year to year, subject to notice to quit, died. His widow continued in possession. On the 1st April, 1932, the landlord sent her a notice to quit, accompanied by a letter enclosed in the same envelope in which he observed, *inter alia*, that the arable land was not being cultivated according to the rules of husbandry; that all he wanted was to see her make the farm pay so that he might be sure of his rent, and that if he were satisfied that the farm would be well cultivated, he would be prepared to reconsider his decision. The tenant quitted the holding, but claimed compensation for disturbance under s. 12 (1) of the Agricultural Holdings Act, 1923. The county court judge held that the letter should be read as incorporated with the notice, but that together the documents were not clear enough to deprive the tenant of her right to compensation. The landlord appealed.

SCRUTTON, L.J., allowing the appeal, said that the two documents should be read together as a notice under s. 12 (1), and that they told the tenant with reasonable clearness that the notice was given because the holding was not being cultivated according to the rules of good husbandry.

GREER and SLESSER, L.JJ., agreed.

COUNSEL: *Neal* and *R. H. Turton*; *C. Cohen.*

SOLICITORS: *Withers & Co.*; *Gibson & Weldon*, Agents for *Archer, Parkin & Townsend*, Stockton-on-Tees.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Hawkes & Son (London) Limited *v.* Paramount Film Service Limited.

Lord Hanworth, M.R., Slesser and Romer, L.JJ. 26th and 30th April, 1934.

COPYRIGHT—MUSICAL—INFRINGEMENT BY NEWS FILM—MECHANICAL REPRODUCTION—"FAIR DEALING"—COPYRIGHT ACT, 1911 (1 & 2 Geo. 5, c. 46), s. 2 (1) (i).

Appeal from a decision of Eve, J. (78 SOL. J. 238).

This was an action for infringement of musical copyright. The plaintiffs owned the copyright in a piece of music played by the band at the ceremony of the opening of the Royal Hospital School at Holbrook. The defendants made a news film of the ceremony, thereby reproducing twenty-eight bars of the musical work. Eve, J., dismissed the action.

Lord HANWORTH, M.R., allowing the appeal, said that the Copyright Act, 1911, must be considered on broad lines, bearing in mind the protection of authors (see *Hanfstaengl* v. *Empire Palace Ltd.* [1894] 3 Ch.D. 109, at p. 128). The intention of the infringer was immaterial, and the copyright owner's right was not measured by the actual damage to him. In this case a substantial part of the work was taken, and there was evidence that it could be reproduced apart from the actual film. The film was not a "review or newspaper summary" within s. 2 (1) (i) of the Act.

SLESSER and ROMER, L.JJ., agreed.

COUNSEL: *Henn Collins*, K.C., and *K. E. Shelley*; *Archer*, K.C., and *E. J. Macgillivray.*

SOLICITORS: *Syrett & Sons*; *Kerly, Sons & Karuth.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Simpson (Inspector of Taxes) *v.* Grange Trust Limited.

Lord Hanworth, M.R., Slesser and Romer, L.JJ. 2nd and 3rd May, 1934.

REVENUE—INCOME TAX—INVESTMENT TRUST COMPANY—RELIEF—MANAGEMENT EXPENSES—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), s. 33 (1), proviso (*a*).

Appeal from a decision of Finlay, J.

The Grange Trust, Limited, carried on the business of an investment trust company, its receipts being derived from shares in English and foreign companies and interest on state and municipal loans. The greater part of these receipts were taxed by deduction; about 85 per cent. fell under Sched. D, and the rest under Sched. C. It was admitted that the profits of the trade carried on could not be assessed under Case 1 of Sched. D. The company claimed relief under s. 33 (1) of the Income Tax Act, 1918, in respect of management expenses. This was objected to on the ground that proviso (*a*) of that section applied, inasmuch as the relief claimed would "make the tax paid by the company . . . less than the tax which would have been paid if the profits had been charged" under Case 1 of Sched. D. Finlay, J., held that the proviso did not apply.

Lord HANWORTH, M.R., dismissing the appeal, said that the question was whether the proviso applied to a company incapable of assessment under Case 1 of Sched. D. The Crown could not select under which schedule to charge a subject, but it could choose under which case under a schedule it would charge him (see *Fry* v. *Salisbury House Estates Ltd.* [1930] A.C. 432). Thus, some companies which might have been taxed under Case 1 might be taxed instead under one of the other cases and proviso (*a*) could be meant to apply to such occasions. There could not be a notional assessment under Case 1 when it could not apply at all. Moreover, there would be great difficulty in applying the rules under that case to this company. A notional assessment would be contrary to *Ormond Investment Co.* v. *Betts* [1928] A.C. 143. Proviso (*a*) did not apply.

SLESSER and ROMER, L.JJ., agreed.

COUNSEL: *The Attorney-General* (Sir T. Inskip, K.C.) and *R. Hills*; *Latter*, K.C., and *J. Stamp.*

SOLICITORS: *Solicitor of Inland Revenue*; *Clifford-Turner, Hopton & Lawrence.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Andrea Sanguineti Davide of Genoa *v.* Ugleexport of Moscow.

Scrutton, Greer and Maugham, L.JJ.

14th March, 26th, 27th and 30th April and 8th May, 1934.

SHIPPING—CHARTER-PARTY—ASSISTANCE OF ICEBREAKER.

Appeal from a decision of Branson, J.

The owner of a steamer chartered it to Ugleexport of Moscow. It was to go to certain Russian ports to load coal, which it was to carry to Italy or Sicily. The charter-party contained a clause that "in the event of the port of loading being inaccessible by reason of ice . . . the charterers undertake to provide icebreaker to enable steamer to reach, load at and leave the said port . . ." The captains were to "follow official instructions issued by authorities for vessel convoyed by icebreakers through the ice." Before the steamer reached the Russian port of Marinpol, it was caught in the ice, the loading being delayed some weeks. The harbour master decided that an icebreaker should escort the steamer and three other ships awaiting assistance. The umpire held that, in the circumstances, this was quite reasonable, and Branson, J., adopting his view, held that under the clause the charterers were obliged to arrange for an efficient icebreaker in such manner as, in the circumstances of weather and ice existing and to be reasonably anticipated, would enable the vessel, apart from accidents, to reach the loading port without undue

delay. He held that, in the circumstances, the owner's claim failed.

SCRUTTON, L.J., allowing the appeal, said that in view of the decision in *Ugleexport Charkow* v. *Owners of s.s. Anastassia* (78 SOL. J. 297), the case must be remitted to the umpire to re-state his view, first, on the action of the authorities controlling the icebreaker in relation to the charterers' liability; secondly, as to the effect on the facts of the case of the observations in that decision with regard to the necessity of continuous assistance; and, thirdly, as to the effect of the convoy system on the liability to give continuous assistance.

GREER and MAUGHAM, L.JJ., agreed.

COUNSEL: *Porter*, K.C., and *A. Miller*; *Pritt*, K.C., and *H. Atkins*.

SOLICITORS: *Richards, Butler, Stokes & Woodham Smith*; *Pettite & Kennedy*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Kearns *v.* Bedford.

Talbot and Macnaghten, JJ. 18th April, 1934.

LANDLORD AND TENANT—CLAIM TO POSSESSION—POSSESSION BY LANDLORD DURING INTERVAL BETWEEN TENANCIES—PREMISES DECONTROLLED—RENT AND MORTGAGE INTEREST RESTRICTIONS ACT, 1923 (13 & 14 Geo. 5, c. 32), s. 2 (1), (3).

This was an appeal by the plaintiff, Mabel Kearns, from a decision given at St. Albans County Court. In the action she claimed against the defendant (the tenant), Henry William Bedford, possession of a house, No. 3, Sunnyside Terrace, St. Albans. A former tenant, one Atkins, vacated the premises on the 16th February, 1931, and on that day deposited the key with the plaintiff's agent. On the 18th February, the agent met a Mrs. Cox, the defendant's mother-in-law, and who acted for him in the matter. The agent agreed with her to let the house to the defendant at a weekly rent of 18s. on the terms that the rent should be payable as from the 16th February. The defendant paid a full week's rent on the 23rd February, 1931, and continued to pay 18s. a week regularly thereafter. In the action the defendant relied on the Rent and Mortgage Interest Restrictions Act, 1923. The plaintiff, however, contended that the house had become decontrolled by virtue of s. 2 (1) of that Act, which provided that, where the landlord came into possession of the dwelling-house after the passing of the Act, the Act should cease to apply to that house. Sub-section (3) of s. 2 provided that for the purposes of this section the expression "possession" shall be construed as meaning "actual possession" and a landlord shall not be deemed to have come into possession by reason only of a change of tenancy made with his consent. The county court judge held that the payment of a full week's rent on the 23rd February had the effect of making the defendant's tenancy relate back to the 16th February. He therefore held that the landlord had never been in possession of the premises, and that the house had not become decontrolled. The plaintiff now appealed.

TALBOT, J., said that what the county court judge had done was to assume that there was possession in fact, but to hold that it did not operate to exclude the provisions of the Act, because of the arrangement as to dating back the tenancy. He (his lordship) thought that that decision was inconsistent with the authorities, and the appeal should be allowed. Judgment for the plaintiff for possession.

MACNAGHTEN, J., agreed.

COUNSEL: *H. I. P. Hallett*, for the appellant; *H. R. Boileau*, for the respondent.

SOLICITORS: *Pothecary and Barrett*, for *T. Ottaway & Son*, St. Albans; *Church, Adams, Tatham & Co.*, for *Matthew Arnold*, Watford.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Romilly *v.* Romilly.

Bateson and Langton, JJ. 10th April, 1934.

HUSBAND AND WIFE—SUMMONS ON GROUNDS OF DESERTION AND WILFUL NEGLECT TO MAINTAIN—REASONS FOR DECISION MUST BE GIVEN IN COURT BELOW—APPEAL DISMISSED.

Appeal from an order of the magistrate sitting at Lambeth, dated 14th February, 1934, dismissing summons for maintenance on the grounds of alleged desertion and wilful neglect to maintain.

The parties having separated by agreement in 1928 came together again in November, 1932. According to the wife's evidence the husband removed some of the household goods in October, 1932, and left her, and had not provided for her and the child of the marriage since. She had complained of the husband's associating with other women. According to the husband's evidence there was no ground of complaint as to other women, but there had been trouble between them over her relations with a man relative. Before the final separation she had told him several times to go, and she had made things unbearable. She did not want him to stay when he was leaving. She had left him on twelve occasions previously, not through his fault. He had considered his liabilities ended when she had ordered him out, saying that the house was hers. The learned magistrate had given no reasons for his decision at the final hearing.

BATESON, J., held that the appeal must be dismissed, but it was regrettable that the magistrate had not given his reasons, though they were pretty plain. The duty of magistrates to give reasons had been clearly laid down in cases which had been cited: *Cobb* v. *Cobb* [1900] P. 145; 82 L.T.R. 626; *Barker* v. *Barker* (1905), 95 L.T.R. 549 n.; 69 J.P. 82. The court was very loath to disturb and slow to reverse any decision founded on the relative credibility of witnesses. The court was not endeavouring to impose on magistrates the necessity of producing long and elaborate reasons for their decisions, but a concise statement of the grounds of their decisions was what was desired.

LANGTON, J., agreed.

COUNSEL: *Hon. E. Duke*, for the appellant; *W. Frampton*, for the respondent.

SOLICITORS: *Helliwell, Harby & Evershed*; *A. H. Freeman*.

N.B.—In another case before the Divisional Court on 11th April, Bateson, J., cited the statement of Sir Gorrell Barnes in *Barker* v. *Barker*, *supra*, and said that the court would have to send back all those cases which had no reasons properly stated, so that magistrates might know that they would have to do it sooner or later, and that it was better done at the hearing.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Marcovitch *v.* Marcovitch.

Bateson and Langton, JJ. 11th April, 1934.

HUSBAND AND WIFE—WILFUL NEGLECT TO MAINTAIN—TERMINATION BY WIFE OF THE SUSPENSION OF HER RIGHT TO SUPPORT—APPEAL ALLOWED.

Appeal from an order of the magistrate sitting at Old Street, dated 26th January, 1934, dismissing a summons for maintenance on the ground of alleged wilful neglect to maintain.

The reasons given by the learned magistrate were that the wife had left the husband on three occasions, on her final departure on the 1st May, 1933, leaving a letter which showed that she intended that her husband should realise exactly what she was doing, that was so far as an individual spouse could do so, untying the marriage tie, breaking up the marriage home, and withdrawing herself and all she had to contribute to it, in utter contempt of the husband and in ruthless finality. Such a suspension of the marriage status remained effective against

the suspending spouse until he or she took the proper step to cancel it. A solicitor's letter, dated the 29th September, 1933, written on behalf of the wife, which was relied upon as cancellation of the suspension, showed no readiness to repair or make restitution.

BATESON, J., held that it was clear that the husband quite definitely was not prepared to take the wife back. She was asking for a home to be made for her and the child, and there was no finding against her that that was not a perfectly genuine request by her, showing that she wanted to come back to her husband, taking into account that when both parties were before the court the wife said that she was quite ready to return to her husband unconditionally. If a wife absented herself from her husband's society for no reason at all, he was not bound to maintain her, but if she changed her mind and intimated that she was quite willing to return to him, the husband must either take her back or provide her with maintenance. The law on that point had been concisely stated by Hill, J., in *Papadopoulos* v. *Papadopoulos* [1930] P. 55; 73 SOL. J. 797. The case must therefore go back to the magistrate for him to award a proper sum in maintenance.

LANGTON, J., agreed.

COUNSEL: *Noel Middleton* for the appellant; *S. Noakes* for the respondent.

SOLICITORS: *Edward Fail; Barfield & Barfield.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Railway and Canal Commission.

In re The Mines (Working Facilities and Support) Acts, 1923 and 1925, and the Mining Industry Act, 1926, Part II. Application by Consett Iron Co., Ltd.

MacKinnon, J., Sir Francis Taylor, K.C., and Sir Francis Dunnell. 16th April, 1934.

WAYLEAVE—LEASE CONDITIONS AND RENT ONEROUS—APPLICATION TO MODIFY—REDUCED RENT ORDERED—CONTRACTUAL RIGHTS AND STATUTORY INTERFERENCE.

This was an application for relief in the matter of rents for wayleaves over land connecting the collieries of the applicants, the Consett Iron Co., Ltd., Durham, with their place of shipping on the River Tyne. The respondents were two trustees of the will of Sir W. A. Clavering, deceased, and three reversioners expectant on the determination of a lease, dated the 30th December, 1916, of part of the Towneley Estate. The applicants are the owners of the Chopwell and the Garesfield Collieries. They also own shipping places at Derwenthaugh, on the River Tyne. With the object of transporting coal from the collieries to the shipping places and to the London and North Eastern Railway Co., they acquired, in 1889, wayleave rights and constructed a mineral railway from Chopwell Colliery to Derwenthaugh, about seven miles. The applicants now asked for leave to work the coal freed from certain terms and conditions in the leases granted to them of certain strips of land over which their railway ran, which, they said, impeded the working thereof; and, alternatively, for ancillary rights to facilitate the working of coal. The respondents contended that the court had no power to comply with the application.

MACKINNON, J., said that the applicants, to get to the Tyne for shipment, had a railway about seven miles long which passed over the property of five different owners, including the respondents. A large part of it was on land owned by the applicants themselves. The applicants were minded to see whether they could get relief from what they considered were very onerous burdens under the leases. An offer to the respondents of £10 an acre had been refused. On the facts he came to the conclusion that the facilities of the applicants to carry away their coal were or would be unduly hampered if the present arrangement were to continue, and that each of the respondents demanded terms which, having regard to all the circumstances, were unreasonable. The question then arose whether it was in the national interest that the applicants should be granted the right of wayleave on less onerous terms. He thought that "national interest" must be a phrase used in contrast with the phrase "personal interest of individuals." In that sense they might consider whether it was in the national interest that a company which employed thousands of men in adding to the national wealth should have its overhead charges continued at a high rate by paying the arbitrary price which an owner could exact by unlocking his gate. His conclusion was that, on the assumption that the two leases came to an end yesterday, the application should be acceded to and that the court ought to grant wayleaves as from the morrow of the pieces of the respondents' land on the terms offered by the applicants—an annual rent of £10 an acre. The most difficult question in the case was whether—the two leases still being in operation—the applicants could ask to be relieved from their obligations under them. It was contended that the respondents could not be deprived of their contractual rights. He thought that it was long ago shown by Parliament in the Lands Clauses Act that the principle of control and interference had long been recognised as salutory. He thought that they should make an order that, as from the 1st July next, the applicants should be granted the right to use their railway over the respondents' land at a fixed annual rent of £10 an acre.

Sir FRANCIS TAYLOR, K.C., and Sir FRANCIS DUNNELL gave judgments to the same effect. Each party bore its own costs.

COUNSEL: *Wrottesley*, K.C., and *H. V. Rabagliati*, for the applicants; *David Bowen* and *Pascoe Hayward*, for the first two respondents; *Wilfrid Greene*, K.C., *F. R. Evershed*, K.C., and *Maurice FitzGerald*, for the other respondents.

SOLICITORS: *Gregory, Rowcliffe & Co.*, for *Cooper and Jackson*, Newcastle-on-Tyne; *King, Wigg & Brightman*, for *Clayton & Gibson*, Newcastle-on-Tyne; *Bircham & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume.

	PAGE
Allen Craig & Co. (London) Ltd., *In re*	223
Arundell *v.* Provident Mutual Life Assurance Association	319
Aschkenasy *v.* Midland Bank Limited	174
Atholl *v.* Read	193
Attorney-General, The *v.* Cozens	298
Attorney-General *v.* Eastbourne Corporation	192
Attorney-General *v.* Racecourse Betting Control Board	207
Baker, *In re*: Steadman *v.* Dickson	336
Banco de Vizcaya *v.* Don Alfonso de Borbon y Austria	224
Bankruptcy Notice, *In re a* (No. 171 of 1934)	297
Beni-Falkai Mining Co. Ltd., *In re*	20
Bennett *v.* Bennett	155
Bushell *v.* Timson	154
Corry *v.* Robinson (Inspector of Taxes)	12
Crossman, deceased, *In re*	82
Davis *v.* Symons	297
Dorman Long & Co. Ltd., *In re*; South Durham Steel and Iron Co Ltd., *In re*	12
E. *v.* E. otherwise C.	137
Egan *v.* Mizen	299
Egyptian House Properties *v.* Maynards, Ltd.	349
Elder Dempster Superannuation Fund Association, *In re*	13
Elias and Others *v.* Pasmore and Others	104
Elliott *v.* Albert	206
Elvin and Powell, Limited *v.* Plummer Roddis, Limited	48
Eustace Miles Foods (1921) Limited, *In re*	238
Feist *v.* Societe Intercommunale Belge d'Electricite	64
Fitzpatrick *v.* Bate	256
Flower *v.* Ebbw Vale Steel, Iron and Coal Co. Ltd.	154
Forbes, *In re*: Public Trustee *v.* Hadlow	336
Goff *v.* Goff	299
Grubb *v.* Grubb	136
Harman *v.* Official Receiver	192
Harris, C. and T. (Calne) Ltd. *v.* Harris	13
Harrison, *In re*: Public Trustee *v.* Best	135
Hawkes & Son (London) Ltd. *v.* Paramount Film Service, Ltd.	238
Higgs *v.* Higgs	279
Hopkins *v.* Hopkins and Castle	64
Housing Act, 1930, *In re*: Johnson *v.* Leicester Corporation	122
Humphries (deceased), In the Estate of	83
Hunter *v.* Hunter	256
International Mercantile Marine Company (Inc.) *v.* Oceanic Steam Navigation Company Limited	350
Irving's Yeast-Vite Limited *v.* Horsenail	102
Jenkins *v.* Deane	13
Jones, *In re*: Public Trustee *v.* Jones	82
Joseph and Another *v.* Phillips	317
Kirk *v.* Kirk and Gandy	175
Kleinwort, Sons & Co. *v.* Associated Automatic Machine Corporation Limited	153

	PAGE
Legguia (deceased), In the Estate of; *ex parte* Ashworth; *ex parte* Meinertzhagen	136
Liddle *v.* North Riding of Yorkshire County Council	349
London Jewellers, Ltd. *v.* Sutton; Same *v.* Robertsons (London), Ltd.	82
London Passenger Transport Board *v.* T. Walton (London) Ltd.	224
Lumiansky *v.* Myddleton and Others	223
Lynch *v.* Lynch	30
Magrath, H. W., *In re* an Appeal from and an Application in respect of the the Decision of	122, 154
Markland *v.* Manchester Corporation	103
Mills *v.* Drummond	192
Mitchell *v.* Page	277
Mizen *v.* Old Florida, Ltd.	298
Monk *v.* Warbey and Others	223
Neumann *v.* Inland Revenue Commissioners	121
Oakhill *v.* Cowan	337
O'Reilly *v.* Prudential Assurance Co., Ltd.	173, 349
Pattenden *v.* Beney	121
Piddington *v.* Co-operative Insurance Society, Ltd.	278
Plummer *v.* Ramsey	175
Potts *v.* Potts	350
Potts, W. T., *In re*: *Ex parte* Etablissements Callot; and De Schrijver *v.* Leonard Tubbs & Co., and the Official Receiver	103
Purkis *v.* Walthamstow Borough Council	207
Queen Anne's Bounty *v.* Cooke: Same *v.* Same	337
Queen Anne's Bounty *v.* Executors of William Blacklocks	135
Queen Anne's Bounty *v.* Thorne	206
Reference by Minister of Health under National Health Insurance Act, 1924; *Re* Professional Players of Association Football	337
Ragdale, *In re*; Public Trustee *v.* Tuffill	48
Rawlings, John, deceased, *In the Estate of*	338
Rex *v.* Chadwick	279
Rex *v.* Hyde	300
Rex *v.* Lamb	279
Rex *v.* Mount; Rex *v.* Metcalfe	225
Rex *v.* Sussex Licensing Justices: *Ex parte* Bubb	350
Roberts, deceased, In the Estate of	319
Rodriques *v.* Bakewell and Salmon	317
Rosse, deceased, In the Estate of	30
Rossi *v.* Blunden (Inspector of Taxes)	48
Royal Warrant Holders' Association *v.* Lipman	64
Rye & Eyre *v.* Commissioners of Inland Revenue	277
Samuel *v.* Adelaide Club, Ltd.	318
Sandler *v.* Sandler, Davies and Johnstone	300
Smith and Lonsdale's Contract, *In re*	173
Smith (Inspector of Taxes) *v.* York Race Committee	29
Smith, R., & Son *v.* Eagle Star and British Dominions Insurance Co. Ltd.	121
South East Lancashire Insurance Co. Ltd., *In re*	265
Stepney Borough Council *v.* John Walker & Sons, Limited	238
Todrick *v.* Western National Omnibus Company	318
Townend *v.* Askern Coal and Iron Co.	103
Trollope, Geo. and Sons *v.* Martyn Bros.	174
Trustees of Sir Currimbhoy Ebrahim Baronetcy Trust *v.* Commissioner of Income Tax, Bombay Presidency	206
Ugleexport Charkow *v.* Owners of S.S. Anastasia. Russian Wood Agency, Ltd. *v.* Dampskibsselskabet "Heimdal" &c.	297
United Dairies (London), Ltd. *v.* Hackney Borough Council	278
Vancouver Malt and Sake Co., Ltd. *v.* Vancouver Breweries, Ltd.	173
Warwickshire Coal Co. Ltd. *v.* Coventry Corporation	336
Webb *v.* Maidstone and District Motor Services, Limited	336
West Ham Corporation *v.* Charles Benabo & Sons	298
Wilchick *v.* Marks and Silverstone (Silverstone, Third Party)	277
Williams *v.* Smith	318

Societies.

University of London: University College.

JOHN AUSTIN AND GERMAN JURISPRUDENCE.

Professor P. JOLOWICZ took the chair at University College on 9th May and Dr. A. B. Schwarz delivered a lecture with this title.

Dr. SCHWARZ explained that John Austin, a great legal figure of the University of London, had been the founder in it of the subject of jurisprudence and also the first English lawyer to show any real interest in German legal science. He had not only awakened English thinkers to the achievements of German juristic research, but had also contributed much to the understanding abroad of English legal phenomena. The difference between English and German law was extremely marked. German law was characterised by science and system, and by the influence of academic teaching. The work of Blackstone and Bentham had brought a demand for systematic codification and clarity of definition; at the same time philosophers had begun to look towards German thought for inspiration. Austin had been one of the chief exponents of German legal ideas in England. He had found German jurisprudence in a state of transition from the natural to the historical school. The theory of *Naturrecht* had been elaborated into an encyclopædic system founded on general principles, its object being to mould every sphere of legal phenomena in accordance with them by rationalistic speculation. The system had laid the foundation for the codifications which had marked the beginning of the nineteenth century. On the other hand, Von Savigny had been a passionate exponent of the theory of the historic evolution of the law, and had reached the summit of his success when Austin had first come to Germany in 1927. Austin's most mature work, "The Province of Jurisprudence Determined," showed the least trace of German influence, but in the later and posthumous parts of his work appeared the characteristic German training in Roman and Pandect law. He followed German lawyers in endeavouring to shape clear juristic concepts and, like the Pandectists, aimed at a progressively higher degree of legal certainty through the construction of more and more suitable concepts. It was possible that his acceptance of foreign doctrines had accounted for the lack of popularity of jurisprudence in England, and for the fact that English jurisprudence had not the same home-grown character as English laws. He had referred chiefly to German Pandectists and hardly ever to English decisions or books. He had provided, however, the first impulse towards the study of comparative law in Germany which had led to a growing interest in English law. John Austin's name, though perhaps too late, was entering into the general consciousness of foreign lawyers. Those who had learned to know him felt a peculiar sympathy and admiration for him both as a thinker and as a man.

City of London Solicitors' Company.

TWENTY-FIFTH ANNUAL GENERAL MEETING.

Mr. M. C. MATTHEWS, the Master, took the chair at the twenty-fifth annual meeting of this Company, held at the Guildhall on 16th May. He said that the Company had originated in the informal meetings of a number of City solicitors who had felt that they needed opportunities for seeing one another personally instead of merely communicating by telephone. Some opinions had been expressed that the Company would set itself up as a rival to The Law Society, but nothing had been further from the intentions of its founders and, in fact, it had developed into a "provincial law society for the City of London," and was able constantly to assist The Law Society in matters affecting City practice. Its funds had unfortunately not yet become sufficient to enable it to acquire premises of its own, nor had it been able to establish a fund to relieve its retired members and their families, but it had fulfilled many of its other objects. It had established a prize of £25 per year for the articled clerk who should attain the best marks in certain subjects of the qualifying examination, and it brought its members together at its annual banquet, its court dinner, and its receptions, to the better furthering of their clients' business. Its court of assistants had forwarded carefully-considered recommendations to the Business of Courts Committee and had made a number of important suggestions for the amendment of the Draft Rules under the Solicitors Act.

Votes of thanks were passed to the Master and to Mr. A. S. Hicks, who has served as honorary auditor for twenty-five years and who intimated by letter his willingness to continue in that capacity.

Union Society of London.

The next meeting of the Union Society will be held on the 30th May at the usual time in the Middle Temple Common Room. The motion for debate is "That this House approves the Sedition Bill." The motion is to be moved by Mr. R. M. Mainwaring and opposed by Mr. D. F. Brundrit.

Law Students' Debating Society.

The annual meeting of the Society was held at The Law Society's Court Room, on Tuesday, 8th May (Chairman, Miss H. M. Cross). After reports and accounts had been laid before the meeting and officers and the Committee for the ensuing session had been elected, an impromptu debate, "Should pigs fly?" took place. Mr. P. W. Iliff opened in the affirmative; Mr. B. W. Main opened in the negative. The following also spoke: Messrs. R. L. Mitchell, E. V. E. White, E. M. Woolf, T. M. Jessup, W. M. Pleadwell, P. Dean, F. G. Timmins, H. F. C. Morgan, J. R. C. Carter. The opener having replied, the motion was carried by one vote.

Gray's Inn Debating Society.

The tenth meeting of the year was held in Gray's Inn Common Room, at 8.15 p.m. on Thursday, 3rd May, when a joint debate with the University of London Law Society took place, the President being in the chair. The motion for debate was: "That the proposed secession of the Irish Free State from the British Empire is to be deplored." The President having made a short speech welcoming the members of the visiting Society, the motion was proposed by Mr. James C. Hales, and opposed by Mr. Michael O'C. Stranders (U. of L.L.S.); Mr. A. Goodman (President, U. of L.L.S.) spoke third, and Mr. Herbert Betuel spoke fourth. On the

motion being thrown open to the house, Mr. Thomas Terrell, Mrs. S. A. T. Coxon, O.B.E., J.P., and Mr. H. J. P. Sweeney (a guest) spoke in favour of the motion, and Miss N. L. Duffell (Hon. Secretary, U. of L.L.S.), Mr. W. G. V. Williams, Mr. R. Dunn, and Mr. T. D. FitzGerald against it, after which the proposer replied. The motion was carried by fifteen votes to five, the number of members of the two societies and guests present being 34.

The next meeting of the Society will be held in Gray's Inn Common Room at 8.15 p.m. on Thursday, 31st May. Particulars are to be found on the Society's notice boards.

The Society of Incorporated Accountants.

ELECTION OF PRESIDENT.

Mr. Edward Cassleton Elliott, F.S.A.A., senior partner in the firm of Messrs. Cassleton, Elliott & Co., London, was re-elected President of the Society of Incorporated Accountants and Auditors on the 15th May.

Mr. Richard Wilson Bartlett, J.P., F.S.A.A., senior partner of Messrs. Walter Hunter Bartlett & Co., Newport (Mon.), was re-elected Vice-President of the Society.

Parliamentary News.

Progress of Bills.

House of Lords.

Arbitration Bill.
Royal Assent. [17th May.
Cambridge University and Town Waterworks Bill.
Royal Assent. [17th May.
Chailey Rural District Council Bill.
Read Second Time. [17th May.
Church House (Westminster) Bill.
Royal Assent. [17th May.
County Courts (Amendment) Bill.
Royal Assent. [17th May.
Darlington Corporation Bill.
Read Second Time. [17th May.
Electricity (Supply) Bill.
Read Third Time. [17th May.
Firearms Act (1920) Amendment Bill.
Royal Assent. [17th May.
Illegal Trawling (Scotland) Bill.
Royal Assent. [17th May.
Irvine and District Water Board Order Confirmation Bill.
Read Second Time. [17th May.
Law Reform (Miscellaneous Provisions) Bill.
Read Third Time. [17th May.
Marriage (Extension of Hours) Bill.
Royal Assent. [17th May.
Ministry of Health Provisional Order Confirmation (Accrington) Bill.
Royal Assent. [17th May.
Ministry of Health Provisional Order Confirmation (Blackburn) Bill.
Royal Assent. [17th May.
Ministry of Health Provisional Order Confirmation (Shipley) Bill.
Royal Assent. [17th May.
Ministry of Health Provisional Order Confirmation (Watford) Bill.
Royal Assent. [17th May.
Petroleum (Production) Bill.
Considered on Report. [17th May.
Protection of Animals Bill.
Royal Assent. [17th May.
Ramsgate Corporation Bill.
Read Second Time. [17th May.
Registration of Births, Deaths and Marriages (Scotland) (Amendment) Bill.
Royal Assent. [17th May.
Sea Fisheries Regulation Bill.
Read First Time. [17th May.
South Metropolitan Gas (No. 2) Bill.
Royal Assent. [17th May.
South West Suburban Water Bill.
Read Second Time. [17th May.
Supply of Water in Bulk Bill.
Royal Assent. [17th May.
Water Supplies (Exceptional Shortage Orders) Bill.
Royal Assent. [17th May.
Workington Corporation Bill.
Royal Assent. [17th May.

House of Commons.

Assessor of Public Undertakings (Scotland) Bill.
Read Third Time. [17th May.
Birmingham United Hospital Bill.
Read Third Time. [17th May.
Cotton Industry (Temporary Provisions) Bill.
Read Second Time. [17th May.
Mexborough and Swinton Traction (Trolley Vehicles) Provisional Order Bill.
Read First Time. [17th May.
Mines (Working Facilities) Bill.
Read Second Time. [17th May.
Pier and Harbour Provisional Orders (Clacton-on-Sea and Saint Mawes) Bill.
Read First Time. [17th May.
Southend-on-Sea Corporation (Trolley Vehicles) Provisional Order Bill.
Read First Time. [17th May.
Watchet Urban District Council Bill.
Reported, with Amendments. [17th May.
West Gloucestershire Water Bill.
Reported, with Amendments. [17th May.

Questions to Ministers.

LAND REGISTRATION ACTS.

Sir CYRIL COBB asked the Attorney-General whether he will invite county councils and other authorities to apply to the Privy Council for an order under the Land Registration Acts so as to enable the public to avail themselves of an extension of the facilities granted by His Majesty's Land Registry in the manner now applicable to the administrative county of London and certain provincial districts in relation to the sale and purchase of land?

The SOLICITOR-GENERAL (Sir Donald Somervell): I do not think that any useful purpose will be served by the issue of such an invitation to local authorities as my hon. Friend suggests. The councils concerned are, in my belief, already fully aware of their powers under the Land Registration Act, 1925. The Lord Chancellor has under his consideration the question of what steps should be taken in view of the fact that on the 1st January, 1936, it will become possible to take steps in this matter without any request from a county council. [14th May.

LEGAL PROCESS (SERVICE BY POST).

Mr. JANNER asked the Home Secretary whether his attention has been drawn to the fact that at the Mansion House Justice Room, on 25th April, over 100 persons were summoned by post and only two appeared; and whether he will take steps to amend the Service of Process (Justices) Act, 1933, to avoid further expense being entailed in future cases?

Sir J. GILMOUR: I have made inquiry, and am informed that sixty-two income tax summonses for the day in question were served by post. Of the defendants so summoned, only thirteen failed to appear or to communicate with the court, and eight of these paid the collector before the hearing. Service by post failed, therefore, in only five cases. I understand that at this court service of summonses by post has been a definite success, and I see no need for amending legislation.

Mr. JANNER asked the Home Secretary the number of courts of summary jurisdiction in the Metropolitan area which have used or attempted to use the method of service of summonses by post permitted by the Service of Process (Justices) Act, 1933; and in how many cases have such attempts to serve summonses proved unsuccessful?

Sir J. GILMOUR: I understand that this method has been experimentally tried at four of the Metropolitan police courts. The experiment has proved very successful in certain classes of cases, and is accordingly to be extended to other Metropolitan courts in the near future. Statistics are not available. [10th May.

BUILDING SOCIETIES (ADVANCES).

Mr. MITCHESON asked the Minister of Health if he can furnish an estimate of the sum advanced by building societies in the year ended 31st March, 1934, to facilitate building operations under the provisions of the Housing Acts?

Sir H. YOUNG: I have no information except in so far as advances are made in respect of houses erected with the help of guarantees given in pursuance of s. 2 of the Housing Act, 1933. For this limited purpose the advances made by building societies up to 31st March, 1934, amounted to £442,360. [17th May.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. WALTER HEDLEY, D.S.O., K.C., be appointed a Metropolitan Police Magistrate, to fill the vacancy caused by the retirement of Mr. H. C. A. Bingley. Mr. Hedley, who is Recorder of Sheffield, was called to the Bar by the Inner Temple in 1904, and took silk in 1927.

The King has approved the appointment of The Hon. STEPHEN O. HENN COLLINS, C.B.E., K.C., to be a Commissioner of Assize to go the North Wales and Chester Circuit in the place of Mr. Justice Charles, who is unable to sit owing to ill-health, and of Mr. SAMUEL LOWRY PORTER, K.C., to be a Commissioner of Assize to go the second half of the South-Eastern Circuit in the place of Mr. Justice Horridge, who will remain in London to take the New Procedure List.

The King has been pleased to approve the appointment of Mr. HERBERT HODDY MACKNEY, Indian Civil Service, as a Puisne Judge of the High Court of Judicature at Rangoon in the vacancy caused by the retirement of Mr. Justice Brown.

The King has been pleased to approve the appointment of Mr. ARTHUR TREVOR HARRIES as a Puisne Judge of the High Court of Judicature at Allahabad in the vacancy caused by the appointment of Mr. Justice Young as Chief Justice of the Lahore High Court.

The King has been pleased to approve the appointment of Mr. HARSIDBHAI VAJUBHAI DIVATIA as a Puisne Judge of the High Court of Judicature at Bombay in the vacancy caused by the death of Mirza Ali Akbar Khan.

Mr. W. ERIC ADAMS, Deputy Town Clerk of Westminster, has been appointed Town Clerk of Islington in succession to Mr. R. H. Jerman, who is the new Town Clerk at Wandsworth.

Mr. F. G. REEVES, Assistant Town Clerk of Worthing, has been appointed Town Clerk of King's Lynn. Mr. Reeves was admitted a solicitor in 1927.

Mr. T. C. BENFIELD, Assistant Solicitor to Huddersfield Corporation, has been appointed Deputy Town Clerk of York. Mr. Benfield was admitted a solicitor in 1929.

Professional Announcements.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS, or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

Wills and Bequests.

Mr. Frank Edward Hodgkinson, retired solicitor, of Uppingham, left £23,741, with net personalty £20,607.

Mr. Francis Digby Dickinson, J.P., solicitor, of Brecon, left £15,028, with net personalty £10,273.

Mr. Richard Hendy, solicitor, of Hythe, left £10,428, with net personalty £7,364.

Mr. William Murray Gloag, K.C., LL.D., Professor of Law in the University of Glasgow, left personal estate in Great Britain and abroad of the value of £76,467, of which £75,253 is in Great Britain.

NOTICE TO CONTRIBUTORS.

The Editor will be pleased to consider for publication contributions and correspondence from any professional source upon matters of legal interest.

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Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 31st May, 1934.

	Div. Months.	Middle Price 23 May 1934	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	112½	3 11 1	3 4 5
Consols 2½%	JAJO	78½	3 3 8	—
War Loan 3½% 1952 or after	JD	102¾	3 8 2	3 6 1
Funding 4% Loan 1960-90	MN	113⅜	3 10 7	3 4 7
Victory 4% Loan Av. life 29 years	MS	111¼	3 11 11	3 7 9
Conversion 5% Loan 1944-64	MN	116½	4 5 10	2 19 6
Conversion 4½% Loan 1940-44	JJ	111¼	4 0 11	2 9 1
Conversion 3½% Loan 1961 or after	AO	103	3 8 0	3 6 7
Conversion 3% Loan 1948-53	MS	100¾	2 19 6	2 18 8
Conversion 2½% Loan 1944-49	AO	95	2 12 8	2 18 4
Local Loans 3% Stock 1912 or after	JAJO	91⅜	3 5 5	—
Bank Stock	AO	362½	3 6 3	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	83½	3 5 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	91	3 5 11	—
India 4½% 1950-55	MN	110¼	4 1 7	3 12 11
India 3½% 1931 or after	JAJO	91	3 16 11	—
India 3% 1948 or after	JAJO	78	3 16 11	—
Sudan 4½% 1939-73	FA	114	3 18 11	1 7 4
Sudan 4% 1974 Red. in part after 1950	MN	110	3 12 9	3 3 10
Tanganyika 4% Guaranteed 1951-71	FA	111	3 12 1	3 3 0
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	101	2 19 5	2 18 0
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109½	4 2 2	3 4 1
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	108	3 14 1	3 12 0
*Australia (Commonw'th) 3¾% 1948-53	JD	102xd	3 13 6	3 11 6
Canada 4% 1953-58	MS	108	3 14 1	3 8 4
Natal 3% 1929-49	JJ	98	3 1 3	3 3 5
*New South Wales 3½% 1930-50	JJ	99½	3 10 4	3 10 10
New Zealand 3% 1945	AO	97	3 1 10	3 6 8
Nigeria 4% 1963	AO	108	3 14 1	3 11 1
Queensland 3½% 1950-70	JJ	100	3 10 0	3 10 0
South Africa 3½% 1953-73	JD	102xd	3 8 8	3 7 2
Victoria 3½% 1929-49	AO	99	3 10 8	3 11 10
W. Australia 3½% 1935-55	AO	99	3 10 8	3 11 4
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	91	3 5 11	—
Croydon 3% 1940-60	AO	97	3 1 10	3 3 4
Essex County 3½% 1952-72	JD	106	3 6 0	3 1 7
*Hull 3½% 1925-55	FA	101	3 9 4	—
Leeds 3% 1927 or after	JJ	91	3 5 11	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	103	3 8 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	77½xd	3 4 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	90½xd	3 6 4	—
Manchester 3% 1941 or after	FA	91	3 5 11	—
Metropolitan Consd. 2½% 1920-49	MJSD	95xd	2 12 8	2 18 4
Metropolitan Water Board 3% "A" 1963-2003	AO	92	3 5 3	3 5 11
Do. do. 3% "B" 1934-2003	MS	93	3 4 6	3 5 1
Do. do. 3% "E" 1953-73	JJ	98	3 1 3	3 1 10
Middlesex County Council 4% 1952-72	MN	110	3 12 9	3 5 2
Do. do. 4½% 1950-70	MN	115	3 18 3	3 5 7
Nottingham 3% Irredeemable	MN	90	3 6 8	—
Sheffield Corp. 3½% 1968	JJ	104	3 7 4	3 6 1
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	108½	3 13 9	—
Gt. Western Rly. 4½% Debenture	JJ	117½	3 16 7	—
Gt. Western Rly. 5% Debenture	JJ	128½	3 17 10	—
Gt. Western Rly. 5% Rent Charge	FA	127½	3 18 5	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	124½	4 0 4	—
Gt. Western Rly. 5% Preference	MA	112½	4 8 11	—
Southern Rly. 4% Debenture	JJ	107	3 14 9	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	107½	3 14 5	3 11 5
Southern Rly. 5% Guaranteed	MA	124½	4 0 4	—
Southern Rly. 5% Preference	MA	111	4 10 1	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

LEGACIES.

THE suggestions of the legal adviser have great weight with most testators, and an appeal is made for the claims of ST. DUNSTAN'S to be borne in mind when charitable bequests are under consideration. St. Dunstan's is solely responsible for the training, settlement and lifelong after-care of over two thousand men who have been blinded as the result of their service for King and Country.

All information from: THE SECRETARY,

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LONDON, N.W.1.

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LEGACIES

are a valued and much needed help in our great work.

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ANNUAL REPORT and full particulars of the work gladly supplied by the Secretary, Mr. J. F. RUSSELL. ('Phone: East 5068.)

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The Convalescent Branch is Hove Villa, Brighton, and is 200 feet above sea level.

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Under Royal Patronage.

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WILL LAWYERS KINDLY ADVISE THEIR CLIENTS TO HELP THIS SOCIETY.

Please make Cheques payable to—

MISS SMALLWOOD'S SOCIETY, Lancaster House, Malvern.

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Child cruelty and neglect in all parts are being checked by the Society's 263 "Children's Men." This never-ceasing work needs continual support.

THE N.S.P.C.C.

has helped over 4,000,000 children to happier lives. A remembrance of the claims of the children is earnestly sought when preparing Charitable Bequests.

LEGACIES ARE A VALUABLE HELP.

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HARRODS LTD.

62-64, Brompton Road, S.W.1.
'Phone (Estate Office only), Ken. 1490.

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Adjoining open country, on the outskirts of the village, within half a mile of station.
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Square hall, 3 reception, 6 bed rooms, bath room and convenient offices.
Main drainage, gas and water.
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Very attractive Gardens of over half an acre.
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THE VALUABLE
FREEHOLD PROPERTY
known as
GOLDHAWK GARAGE,
165-167, GOLDHAWK-ROAD,
and extensive lock-up garages and workshops in the rear of Nos. 169-201, Goldhawk-road,
together with Nos. 191 and 199, Goldhawk-road,
SHEPHERD'S-BUSH,
covers a site area of
ABOUT TWO ACRES,
with frontage of about 70ft. to Goldhawk-road, and a side frontage of about 181ft. to Brackenbury-road, and comprises
the 5-Pump Filling Station, with offices and Garage for 35 cars, 69 good lock-up garages, range of workshops, 190ft. x 50ft.; large and lofty shed, about 97ft. x 61ft.; brick-built house let as 4 flats; 2 semi-detached Houses, with frontages to Goldhawk-road, one let on lease at a ground rent. There is also a separate entrance to the lock-up garages, about 10ft. wide, between Nos. 197 and 199, Goldhawk-road.
RENT ROLL approximately
£3,174 per annum
from permanent and temporary tenancies (apart from the filling station and garage attached thereto). BUT A CONSIDERABLY INCREASED INCOME COULD NO DOUBT BE OBTAINED BY UTILISING THE SITE FOR MORE REMUNERATIVE PURPOSES THAN AT PRESENT.
POSSESSION ON COMPLETION,
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Particulars, plan, and conditions of sale of the Auctioneers, 22, King-street, St. James', S.W.1. Whitehall 2721 (8 lines), and the Motor Auction Mart, 70, Seymour-place, W.1. Paddington 0277 (2 lines).

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FREEHOLD.
A CHARMING LITTLE
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3 reception rooms, 4 bed rooms, bath room, compact offices.
Central heating. Independent hot water system. Electric power.

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Particulars from the Auctioneers, 20, St. James's-square, S.W.1.

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